

THE MADRAS LEGISLATIVE COUNCIL.

Friday, the 5th December 1947.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Mr. President (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Employment in Government service of I.N.A. men.

* 166 Q.—SRI S. B. ADITYAN : Will the Hon. the Premier be pleased to state—

(a) how many applications were received from I.N.A. men (Indian National Army) for employment in Government service;

(b) how many I.N.A. men have been provided with employment, and in what services; and

(c) how many ex-service men (of the British Indian Army) have been provided with employment and in what services?

THE HON. SRI O. P. RAMASWAMI REDDIYAR :—“(a) to (c) சம்மந்தப்பட்ட இலாக்காக்களின் தலைவர்களிடமிருந்தும் மற்ற அதிகாரிகளிடமிருந்தும் தகவல்கள் கேட்கப்பட்டிருக்கின்றன. வந்தவுடன் சபையின் மேஜைமேல் வைக்கப்படும்.”

[(a) to (c) The information has been called for from Heads of Departments and other authorities concerned and will, on receipt, be placed on the table of the House.]

SRI S. B. ADITYAN :—“பொதுவாக சர்க்கார், Armed Police-ல் I.N.A. men-க்கு சலுகை காட்டக்கூடுமா?”

THE HON. SRI O. P. RAMASWAMI REDDIYAR :—“அதைப்பற்றி யோசிக்கப்படும்.”

Muslims in service in the Government.

* 167 Q.—SRI S. B. ADITYAN : Will the Hon. the Premier be pleased to state—

(a) the number of Muslims in various services under the Government of Madras;

(b) how many of them have opted for services in Pakistan; and

(c) whether the Government provided any leave, travelling allowance or other facilities for those who so opted?

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THE HON. SRI O. P. RAMASWAMI REDDIYAR :—“(a) பாக்கிஸ் தானுக்குப் போவதற்கு சந்தர்ப்பம் அளிக்கப்பட்ட சர்வீஸ்களைப்பற்றி மட்டுமே கனம் அங்கத்தினர் தகவல் கேட்கிறார் என்று அனுமானிக்கிறேன்.

விபரம் கீழ் வருமாறு :—

ஐ.ஸி.எஸ். ..	..	..	..	12
இந்தியன் போலீஸ் ..	..	..	..	6
ஐ.எ.எஸ். ..	..	..	..	1
ஐ.எப்.எஸ். ..	..	..	..	2
மொத்தம் ..				21

“(b) ஐ.ஸி.எஸ். ..	..	..	..	11
இந்தியன் போலீஸ் ..	..	..	..	2
ஐ.எ.எஸ். ..	..	..	..	1
ஐ.எப்.எஸ். ..	..	..	..	1
மொத்தம் ..				15

(ஸர் அக்பர் ஹைதாரி அஸாம் கவர்னராயிருப்பதால் அவரைப்பற்றிய கேள்வி எழவில்லை.)

குறிப்பு.—(1) மேலே குறிப்பிட்ட இந்தியன் போலீஸ் இருவரில் ஒருவரை பற்றி பாகிஸ்தான் சர்க்கார் இன்னும் கடைசியாக சொல்லவில்லை.

(2) ஐ.எ.எஸ். ஆபீஸர் ஒருவர் 1947-ம் ஆண்டு ஜூலைமீ 16உ முதல் 4 மாதம் ரிஸையராவதற்கு முந்தி லீவு வாங்கினார். 1947-ம் ஆண்டு ஜூலைமீ 7உயில் மேற்கு பாகிஸ்தானுக்குப் போவதற்கு அவர் கொடுத்த மனு இந்தியா சர்க்காருக்கு அனுப்பப்பட்டது.

“(c) ஐ.எப்.எஸ். ஆபீஸர் பாகிஸ்தானுக்குப் போவதற்கு முன் இந்தியா சர்க்காரிடம் வேலையாயிருந்தார், அவருக்குக் கொடுக்கப்பட்ட வசதிகளைப்பற்றிய தகவல் இல்லை. மற்ற ஆபீசர்களுக்கு சம்பள அட்வான்ஸ், பிரயாண அலவன்ஸ் முதலியன கொடுக்கப்பட்டன. அவர்களை சரியான சமயத்தில் விடுவிக்கப்பட்டது.”

[(a) It is presumed that the hon. Member wants information as to the number of Muslims in those services wherein the option to serve in Pakistan was given. The number of such officers is as follows :—

I.C.S. ..	..	..	..	..	12
I.P. ..	..	..	..	..	6
I.A.S. ..	..	..	..	..	1
I.F.S. ..	..	..	..	..	2
Total ..				21	

(b) I.C.S. ..	..	..	..	..	11
I.P. ..	..	..	..	..	2
I.A.S. ..	..	..	..	..	1
I.F.S. ..	..	..	..	..	1
Total ..				15	

(There was no question of option in the case of Sir Akbar Hydari as he is Governor of Assam.)

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NOTE.—(i) The Government of Pakistan have not yet finally accepted the offer of services by one of the two Officers of the I.P. referred to above.

(ii) The Officer who belonged to the I.A.S. was granted leave for four months from 16th July 1947 preparatory to retirement under the premature retirement rules. His petition, dated 7th July 1947, for service in one of the provinces of Western Pakistan was forwarded to the Government of India.

(c) The Officer of the I.F.S. was employed under the Government of India prior to his transfer to Pakistan. No information regarding the facilities provided to him is therefore available. The remaining officers were relieved in time and advances of pay and travelling allowance were granted to those who applied for it.]

SRI S. B. ADITYAN :—“ முன் சொன்ன சென்னை சர்வீஸைத் தவிர, மற்ற எல்லா சர்வீஸ்களிலும் இருக்கப்பட்ட முஸ்லீம்கள் பாகிஸ்தானுக்குப் போவதற்கு வசதி செய்துகொடுக்க முடியுமா ? ”

THE HON. SRI O. P. RAMASWAMI REDDIYAR :—“ அவர்கள் கேட்டுக்கொண்டால் செய்துகொடுக்கப்படும்.”

K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“ இதர முஸ்லீம் அல்லாதார் யாரும் இந்த மாகாணத்திலிருந்து பாகிஸ்தானுக்குப்போக அனுமதி கேட்கிறார்களா ? ”

THE HON. SRI O. P. RAMASWAMI REDDIYAR :—“ இல்லை.”

K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“ இந்த மாகாணத்திலிருந்து பாகிஸ்தானுக்குச் சென்ற சில உயர்தர ராணுவ உத்தியோகஸ்தர்களை இந்தியா கவர்ன்மெண்டார் திருப்பி அழைத்தது உண்டா ? ”

THE HON. SRI O. P. RAMASWAMI REDDIYAR :—“ அது எனக்குத் தெரியாது. இந்தியா அரசாங்கத்தைக் கேட்கவேண்டும்.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Provincial Service-லிருந்து எவ்வளவு பேர்கள் பாகிஸ்தானுக்குப் போயிருக்கிறார்கள் ? ”

SRI N. VENKATACHALAMAJI :—“ ஜெ. ஸ்டீ. ஸுபாஸ்ஸுலீ ரீசைங்கண்டல் மீசு supplementary questions பதில்கள் பில ரீசுண்ட் கூட்டி.”

MR. PRESIDENT :—“ I think the supplementary questions may be put in English. I think the Hon. the Premier understands English and he may have option to speak in Tamil, but hon. Members may put supplementary questions in English.”

K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“ Tamil is going to be the regional language of this Province. So, it is better even now we try to speak in Tamil.”

MR. PRESIDENT :—“ I think, whatever the procedure was in the other House, here, the Hon. the Premier has agreed to the putting of supplementary questions in English and to answer those questions in English.”

THE HON. SRI O. P. RAMASWAMI REDDIYAR :—“ இனிமேல் நான் தமிழில்தான் பேசுவதாக நினைத்திருக்கிறேன்.”

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ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ Provincial Service-லிருந்து எவ்வளவுபேர்கள் பாகிஸ்தானுக்கு போவதாக கேட்டுக் கொண்டார்கள் ? ”

THE HON. SRI O. P. RAMASWAMI REDDIYAR :—“ அதை தெரிவிக்க நீங்கள் நோட்டீஸ் கொடுக்கவேண்டும்.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ அப்படி சென்றவர்கள் திரும்பி இங்கே வரவேண்டுமென்று யாராவது கேட்டுக் கொண்டார்களா ? ”

THE HON. SRI O. P. RAMASWAMI REDDIYAR :—“ அதற்கும் நோட்டீஸ் கொடுக்கவேண்டும்.”

SRI S. B. ADITYAN :—“ Instead of waiting for the Government servants informing the Government that they would want to go to Pakistan, whether it is not better that the Government themselves send circulars to all Government offices to find out how many of them are anxious to go to Pakistan? ”

THE HON. SRI O. P. RAMASWAMI REDDIYAR :—“ அந்தக்கேள்வி எழவில்லை.”

K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“ May I know whether officials of this Province who have gone to Pakistan have expressed a desire to return, and whether they have been given any facilities for returning to this Province? ”

THE HON. SRI O. P. RAMASWAMI REDDIYAR :—“ அதைப்பற்றி எனக்கு ஞாபகம் இல்லை. வேண்டுமென்றால் பிறகு தெரிவிக்கிறேன்.”

SRI S. B. ADITYAN :—“ Have the Government looked into the records of all Government servants and found out how many of them are Pakistan sympathizers and how many of them are loyal to the Indian Union, since the 15th of August? ”

THE HON. SRI O. P. RAMASWAMI REDDIYAR :—“ இல்லை. அவர்களுடைய மனோபத்துவத்தை அறியும்படியான சக்தி எனக்கு இல்லை.”

K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“ May I know from the Government, Sir, whether even the entertainment of mental sympathy by anyone belonging to one State towards a Foreign State not on terms of hostility, is banned according to any canon of international law? ”

THE HON. SRI O. P. RAMASWAMI REDDIYAR :—“ அந்தமாதிரி கருவி இன்னும் கண்டு பிடிக்கப்படவில்லை. கண்டு பிடிக்கப்பட்டால் அதைப்பற்றி தெரிவித்துக்கொள்ளுகிறேன்.”

Milk Factory, Madras.

* 168 Q.—**SRI P. VEERABHADRASWAMI** : Will the Hon. the Minister for Food be pleased to state—

(a) when and at what cost the reconstituted milk factory at Madras was started;

(b) what is its daily output;

(c) the loss or profit on the concern from the time it was started up to this date;

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(d) whether the Government propose to start such factories in any big towns in the Province; and

(e) if any help, and, if so, what kind of help, will the Government give if private companies propose to start them?

THE HON. DR. T. S. S. RAJAN :—“(a) The Government Milk Factory, Madras, was installed on 16th January 1947 and the total capital expenditure incurred up to date is Rs. 2.85 lakhs.

“(b) The present output is 1,250 Madras measures of reconstituted milk per day. In the early stages it was a little less (about 1,000 Madras measures).

“(c) The total loss from 16th January to 30th June 1947 was Rs. 18,456-7-5. This loss was mainly due to the fact that during the initial months the daily sales were much less than at present. The factory has been working at a profit since 1st July 1947, the total profit from 1st July to October 1947 being Rs. 11,204-6-3. Hence, the net loss on 1st November 1947 was Rs. 7,252-1-2, which is expected to be made good by the end of the official year 1947-48.

“(d) No.

“(e) The Government have no proposal to give any assistance to private companies for starting reconstituted milk factories.”

K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“May I know from what source do they get the ingredients for making this reconstituted milk?”

THE HON. DR. T. S. S. RAJAN :—“The Government have got in their possession a large quantity of imported milk, which is converted into reconstituted milk. The other ingredients are a little cream and a little fat. These ingredients are added so that the reconstituted milk may be made as much akin to normal milk as possible.”

K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“Do the Government propose to indent for additional quantities of milk for this purpose?”

THE HON. DR. T. S. S. RAJAN :—“The question will be taken as soon as the present stock is exhausted.”

K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“Will the Government consider the advisability of starting cattle farms for the purpose of producing natural milk instead of getting milk powder from foreign countries?”

THE HON. DR. T. S. S. RAJAN :—“Although it does not arise out of this question, I can inform my hon. Friend that there is a scheme for having cattle farms in this Province and Government are taking measures to have one.”

SRI S. B. ADITYAN :—“Is the reconstituted milk being sold through the T.U.C.S., Sir?”

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THE HON. DR. T. S. S. RAJAN :—" If the T.U.C.S. want to sell it, of course, they will get it."

Area that will be submerged under the Tungabhadra Project.

* 169 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Public Works be pleased to state—

(a) the area which will be submerged on account of the Tungabhadra Project;

(b) the number of villages and houses and the population affected;

(c) the extent of cultivated and cultivable land which will be submerged;

(d) the terms and extent of compensation proposed to be given;

(e) whether compensation is to be paid on the value at the time of acquisition and will be governed by the provisions in the Land Acquisition Act;

(f) whether complaints have been received objecting to compensation based on 1941 price level and, if so, what the Government propose to do;

(g) whether any plans for the rehabilitation of the people in the submerged area have been formulated and, if so, what they are; and

(h) whether any authority has been set up to promote relief and rehabilitation measures?

THE HON. SRI M. BHAKTAVATSALAM :—" (a) 138 $\frac{1}{8}$ square miles as detailed below :—

Madras Presidency	..	..	75-9/16 sq. miles.
Hyderabad State	..	..	57 $\frac{1}{2}$ sq. miles.
Bombay Presidency	..	..	5-1/16 sq. miles.
Total	..	..	138-1/8 sq. miles.

" (b) Villages	..	..	25
Houses	..	..	5,812
Population	..	..	22,638

" (c) The extents of cultivated and cultivable land that will be submerged when the reservoir is full are :—

Wet	..	..	2,284 acres.
Dry	..	..	35,314 acres.
Garden	..	..	379 acres.

" (d) to (f) Compensation was ordered to be given on the basis of the market value of land in 1941 with an increase of 75 per cent over it, excluding the 15 per cent solatium, the same principle being adopted for the valuation of buildings,

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trees, etc. The Government directed the Land Acquisition Officer to make an award in the usual manner and pay the extra 75 per cent as an ex-gratia payment separately. The matter is under further consideration as a result of the representations made recently by the Tungabhadra Project Relief Committee.

“(g) The Special Chief Engineer has been asked to instruct the Public Works Department staff to align quickly the distributaries on ground so that the scheme of colonization of the ryots of the submergible area may keep pace with the construction of the dam. The Special Officer is being asked to prepare a scheme to rehabilitate the displaced population.

“(h) No, the matter will be examined after receipt of the Special Officer's report.”

Area covered under the new irrigation proposals from the Cauvery.

* 170 Q.—SRI K. MANATHUNAINATHA DESIGAR: Will the Hon. the Minister for Public Works be pleased to state—

(a) the extent of land in Salem, Trichinopoly and Coimbatore districts, for which irrigation is proposed to be given newly from the Cauvery;

(b) whether the total maximum ayacut for the Cauvery-Mettur Project has not been already fixed, when the project was carried out;

(c) whether the supply to the additional extent proposed now will not affect the present supply to the whole delta;

(d) what safeguards and guarantees, the Government propose to give to the existing ayacut in the delta, especially in view of the fact that the level of the reservoir goes down at the beginning of the cultivation season in some years, as in 1946; and

(e) whether they are not already receiving complaints from the New Delta, that there is not enough supply for irrigation under Grand Anicut Canal system during cultivation season?

THE HON. SRI M. BHAKTAVATSALAM :—“(a) Salem—27,000 acres, half wet and half dry. Trichinopoly—42,000 acres, wet. Coimbatore—18,000 acres, half wet and half dry.

“(b) Yes.

“(c) No; the supply to the additional extent proposed now will not affect the present supply to the whole delta.

“(d) The level in the Stanley Reservoir does not go down at the beginning of the irrigation season in all years. However the area of the proposed irrigation in Salem and Coimbatore districts will be restricted according to the conditions of storage in the reservoir at the beginning of the season. In the case of the proposed irrigation in Trichinopoly district supply will be given only if the storage in the reservoir is favourable. In other years the area will raise only a dry crop.

“(e) No.”

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SRI K. MANATHUNAINATHA DESIGAR:—“ Are not the Government aware that the two monsoons are failing every alternate years? ”

THE HON. SRI M. BHAKTAVATSALAM:—“ Yes, Sir. We have taken that into account.”

The Boiler Department.

* 171 Q.—SRI P. VEERABHADRASWAMI: Will the Hon. the Minister for Public Works be pleased to state—

(a) what is the revenue now available and the expenditure in the Boiler Department;

(b) the increase in the past five years of boilers; and the expected income in registration of economisers and new boilers now contemplated;

(c) the number of Inspectors and the time spent by them outside headquarters every year; and

(d) if there is increase in work, whether the Government have any proposal to increase the number of Inspectors; if so, by how many?

THE HON. SRI M. BHAKTAVATSALAM:—“ (a) The receipts and expenditure for the year 1946-47 were Rs. 77,364 and Rs. 71,549, respectively. (The expenditure excludes dearness and war allowances.)

“ (b) The increase in the number of boilers during the past five years is 147. The expected income from the registration of economizers is Rs. 8,000 and that registration of new boilers is Rs. 10,200.

“ (c) There were five Inspectors of Boilers during the three years, 1942-45 and six from 1945-46 onwards. The average number of days spent by the Inspectors outside headquarters during the five years from 1942-43 to 1946-47 was 212, 219, 232, 209 and 200 days respectively.

“ (d) It is understood that the Chief Inspector of Boilers has submitted certain proposals to the Chief Engineer in this regard. They have not yet been received by the Government from the Chief Engineer.”

Improvements to certain minor ports.

* 172 Q.—SRI P. VEERABHADRASWAMI: Will the Hon. the Minister for Public Works be pleased to state—

(a) whether there are proposals to improve the minor ports of Baruva, Bimlipatam and Calingapatam; and

(b) whether any estimates have been prepared and when the work will be taken up?

THE HON. SRI M. BHAKTAVATSALAM:—“ (a) There are no proposals to improve the Ports of Baruva and Bimlipatam. There is a proposal to cement concrete the beach road at Calingapatam at an estimated cost of Rs. 16,000.”

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“(b) No estimate has been prepared, the work at Calingapatam will be taken up in 1948-49.”

* 173 Q.—

K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“ On a point of order, Sir. I understand that even from the question itself, sub-clauses (g) and (h); one has to infer that the matter is *sub judice*. Therefore, I would ask whether it is proper to raise this question on the floor of this House? ”

THE HON. MR. DANIEL THOMAS :—“ Yes, the matter is pending before the First-class Magistrate, Chingleput.”

SRI C. N. MUTHURANGA MUDALIYAR :—“ As a matter of personal explanation, Sir. This question was tabled in March last at the time of the Budget Session. The accident occurred in February last and we are practically in the first week of December and the Court is yet investigating the case and it is *sub judice*. I would like to know, Sir, when the case will be disposed of and myself enabled to ask the question.”

MR. PRESIDENT :—“ I do not know whether the Hon. Minister can answer the question.”

SRI C. N. MUTHURANGA MUDALIYAR :—“ I understand the framing of charges was delayed for about a month and the case is being dragged on and I also understand that some gull-mall is being made to foist the crime on some unknown person instead of the real person.”

MR. PRESIDENT :—“ It is a matter for the Government.”

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ I do not think the answer can get into the records, Sir; neither the question nor the answer.”

MR. PRESIDENT :—“ No question which is not answered goes into the record.”

Prefabricated houses.

* 174 Q.—SRI P. VEERABHADRASWAMI : Will the Hon. the Minister for Prohibition be pleased to state—

(a) whether the Government have any proposals to construct prefabricated houses;

(b) if they have any such proposals, what types of houses and at what cost they can be prepared; and

(c) if not, whether there is any proposal before the Government to start a factory for this purpose to enable people with small incomes to go in for them?

THE HON. MR. DANIEL THOMAS :—“ (a) & (b) The Government have not so far considered this question.

“(c) The Provincial Housing Committee are considering the question of suitability of prefabricated houses and their final recommendations are awaited. Action will be taken on receipt of the recommendations of the Committee.”

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Vanaspathi mills.

* 175 Q.—SRI P. VEERABHADRASWAMI: Will the Hon. the Minister for Industries be pleased to state—

(a) the number of vanaspathi mills in the Province and where they are located;

(b) their total annual output;

(c) the quantity imported into our Province from other Provinces;

(d) the quantity exported from our Province to other Provinces; and

(e) whether the Government propose to grant licences for starting new vanaspathi factories in the Province?

THE HON. SRI H. SITARAMA REDDI:—“(a) Two. One at Madras and the other at Mettur Dam.

“(b) 5,400 tons.

“(c) About 2,400 tons per annum.

“(d) About 600 tons per annum.

“(e) The Government have already permitted the starting of nine new vanaspathi factories of a total production capacity of 45,000 tons per annum in this Province. They do not propose to permit further new factories pending the result of the investigation undertaken by the Government of India on the nutritive value of vanaspathi.”

SRI R. SURYANARAYANA RAO:—“May I know, Sir, whether in the proposed nine new Vanaspathi factories, the Government Factory at Calicut is included?”

THE HON. SRI H. SITARAMA REDDI:—“I think it is not included.”

K. T. M. AHAMED IBRAHIM SAHIB BAHADUR:—“May I know if there is any proposal to colour the products of these factories in order that they may not be used for adulterating ghee?”

THE HON. SRI H. SITARAMA REDDI:—“I would like to have notice of this question.”

The Government Labour Officer at Walparai.

* 176 Q.—SRI P. R. K. SARMA: Will the Hon. the Minister for Industries be pleased to state whether there is a Welfare or Labour Officer of the Government at Walparai and who he is, and how long he has been there?

THE HON. SRI H. SITARAMA REDDI:—“No, Sir. The headquarters of the Labour Officer for the plantations in Coimbatore, Salem and Madura districts is Pollachi. The post is yet unfilled.”

SRI R. SURYANARAYANA RAO:—“May I know, Sir, why there has been such a delay in posting the officer when the post was actually sanctioned?”

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THE HON. SRI H. SITARAMA REDDI :—“ I understand that one gentleman was posted to that place, but he did not join duty and then the matter was reported to the Government by the Commissioner of Labour in September 1947. Steps are being taken to post somebody to that place.”

SRI R. SURYANARAYANA RAO :—“ Sir, is not the period from September to December sufficiently long to keep a post vacant?”

THE HON. SRI H. SITARAMA REDDI :—“ The question of selecting a person for this post by the Madras Public Service Commission is being considered.”

Post-war education schemes.

* 177 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Education be pleased to state—

(a) what the Post-war education schemes formulated by the Post-War Reconstruction Committee and approved by the Government are;

(b) what the amount allocated to each of the schemes is;

(c) whether the programme laid down for post-war development of education has been altered, and if so, in what way;

(d) whether provision of midday meals for school children and the improvement of the status and emoluments of the teachers occupied high priorities; and

(e) what the present list of priorities is?

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

“ (a) & (b) Details of the scheme approved by Government are given below :—

Number of the scheme in the pamphlet.	Name of scheme.	Cost for five years period.	
		Recurring.	Non-recurring.
(1)	(2)	(3)	(4)
		RS. LAKHS.	RS. LAKHS.
34	Training of teachers	60	..
35	Technical education	18	50
36	Training of physical instructors ..	5.65	..
87	Revision of salaries of teachers ..	894.35	..
88	Compulsory elementary education	660	40
89	Supply of midday meals	1,250	29
90	Medical inspection of schools ..	60	..
		<u>2,948</u>	<u>119</u>

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The five-year plan was generally approved by the previous Government but the present Ministry has been making a general review of the whole position.

“(c) Pending the review mentioned above, the lines of the plan have generally been followed, but alterations have had to be made as to the commitment on each scheme either with reference to the position of Provincial finances or with reference to limitations imposed by the actual circumstances relating to factors relevant to the various schemes. The present position in regard to each scheme is briefly indicated below :—

Scheme No. 34—Training of teachers.—Subsequent to the framing of the plan the Government have sanctioned a scheme of stipends to students admitted for training which was not originally contemplated. The cost of the scheme for the five-year period has been tentatively fixed at Rs. 180 lakhs.

Scheme No. 35—Technical education.—The question of the revision of the cost of the scheme is under consideration.

Scheme No. 36—Training of physical training instructors.—The cost of the scheme will be determined after the proposals to be made by the Director of Public Instruction are examined.

Scheme No. 87—Revision of salaries of teachers.—The revision of scales of pay sanctioned by Government entail additional expenditure as indicated below :—

Schools.	Local bodies.		Private management.	
	Cost of revision.	Government liability.	Cost of revision.	Government liability.
(1)	(2)	(3)	(4)	(5)
	LAKHS.	LAKHS.	LAKHS.	LAKHS.
	RS.	RS.	RS.	RS.
Elementary schools	86	Nil	82	82
Secondary schools	22	15	47	29
Total	108	15	129	111

In the case of teachers in Government service the extra cost of revision is Rs. 8 lakhs.

Scheme No. 88—Compulsory elementary education.—The scheme of compulsory elementary education could not be introduced on the scale originally laid down in the plan. Under the scheme already introduced, about 5 lakhs of children would be brought to schools at the end of 1947-48. A provision of about 54 lakhs has been made in the current years' budget for the scheme. Further extension of the scheme in future years depends on the funds to be provided by Government for the purpose.

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Scheme No. 89—Supply of midday meals.—The scheme has been dropped on financial considerations from 1st April 1947.

Scheme No. 90—Medical inspection of schools.—The Director of Public Instruction has been asked to submit revised proposals for implementing the scheme. The original estimate may require revision with reference to revised proposals.

“(d) & (e) The priorities in the five-year plan were first settled as follows :—

- (1) that the schemes relating to the outpost of teachers and the enhancement of their pay should take the first place;
- (2) that the schemes relating to the compulsory education (including provision of midday meals) and the schemes relating to technical education should be dealt with, together, as next in importance;
- (3) that schemes relating to the medical inspection should stand next;
- (4) that schemes relating to Physical Education should follow after that in importance; and
- (5) that at all stages the interest of the returning soldier should be a point for primary consideration.

These priorities have not been altered, except for the modifications in the schemes referred to in the answer to clause (c).”

SRI S. B. ADITYAN :—“ According to the present rate of progress, may I know how long will it take for bringing compulsory primary education into force throughout the Province? ”

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—
“ According to the present programme it will take about 10 to 15 years.”

SRI R. SURYANARAYANA RAO :—“ May I know, Sir, whether the scheme already recommended by the Post-war Reconstruction Committee and accepted by this Government was altered in any particular and whether the Government will give an opportunity to the public to express their views or any body of persons to express their views in order either to change the priority or emphasising one aspect of education in preference to another? ”

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—
“ The schemes are always published from time to time and this House has always an opportunity of discussing this question.”

SRI R. SURYANARAYANA RAO :—“ May I know, Sir, whether it would not be helpful to this House or to the other House if all those changes which are made are compiled and circulated to members, because we find that every day Press Communiqués are issued and we get confused over the number of changes that are taking place in the system of education? ”

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THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

" I am afraid there will have to be changes in details as and when they are needed and they cannot be compiled because they are too many and it is always open to hon. Members to bring up for discussion any matter in which they are interested."

MR. PRESIDENT :—" In the answer to clause (d) and (e) reference is made to the 'returning soldier.' May I know why is the reference to the 'returning soldier'?"

THE HON. SRI T. S. AVINASHILINGAM CHETTIYAR :—

" The point is that when they made the original scheme they provided for war-returned men, so that in any future scheme of development their interests also should be attended to."

Woman Probation Officer.

* 178 Q.—MRS. M. N. CLUBWALA : Will the Hon. the Minister for Agriculture be pleased to state—

(a) whether it is a fact that there is only one Woman Probation Officer for the City of Madras both for juvenile and adult probation ;

(b) whether the Government are aware that the area covered is very large and that consequently probation work which is so essential as a reformatory measure cannot achieve the success it should, due to only one woman officer having been appointed; and

(c) whether the Government have considered the appointments of other women officers and, if so, when the new women officers will be appointed?

THE HON. SRI K. MADHAVA MENON :—" (a) The answer is in the affirmative.

" (b) Yes.

" (c) The Government have sanctioned the post of a temporary additional Woman District Probation Officer for the City. The additional officer will be appointed shortly."

Cultivation of the reclaimed area under the Cauvery-Mettur Project.

* 179 Q.—SRI K. MANATHUNAINATHA DESIGAR : Will the Hon. the Minister for Land Revenue be pleased to state—

(a) whether the whole extent of 77,048 acres, which have been reclaimed for cultivation in the Cauvery-Mettur Project area, as mentioned by the Honourable Minister for Public Works in his speech in the Legislative Assembly on the 26th September 1947, have been cultivated in the fasli 1356 ;

(b) if not how many acres have been cultivated ;

(c) for how many acres, water charges have been levied, and how much was realized in 1356 fasli ;

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(d) the extent of land classified under each of the following classes, out of the 77,048 acres above mentioned: dry, manavari, wet, Government lands like tank, dry waste, etc.;

(e) the extent of land under each class, which was left uncultivated in 1356, and the reason for the same; and

(f) whether the Government will take immediate steps to bring under cultivation at once all such lands referred to in clause (e)?

THE HON. SRI KALA VENKATA RAO :—“(a) to (f) The Government have no information, but have called for a report.”

SRI K. MANATHUNAINATHA DESIGAR :—“May I know, Sir, whether the Hon. Minister will be pleased to place the report before the House as soon as it is received?”

THE HON. SRI KALA VENKATA RAO :—“I will communicate it to the hon. Member since he is very much interested in the matter.”

SRI R. SURYANARAYANA RAO :—“May I ask, Sir, why the other members of the House should be denied that information?”

THE HON. SRI KALA VENKATA RAO :—“It is not of such a general importance as the whole House would require it.”

SRI K. MANATHUNAINATHA DESIGAR :—“May I ask the Hon. Revenue Minister whether the Government are aware that the extent has not helped the Grow More Food Campaign?”

THE HON. SRI KALA VENKATA RAO :—“The hon. Member can put that question to the gentleman who is in charge of the Grow More Food Campaign.”

Cinchona plantations.

* 180 Q.—SRI P. R. K. SARMA : Will the Hon. the Minister for Rural Development be pleased to state—

(a) whether the principal Quinine Officer of the Government of India visited the quinine plantations in this Province recently and, if so, whether he has made any recommendations, and what the recommendations are, if any;

(b) whether any curtailment of cinchona plantations or production by the Provincial Government is contemplated and, if so, what the extent of the reduction will be and why; and

(c) whether it is proposed to put into the market synthetic quinine and, if so, from where it is proposed to be imported?

THE HON. SRI V. KURMAYYA :—“(a) Yes, but he has not made any recommendations.

“(b) The question is under the consideration of the Government.

“(c) No, Sir.”

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THE HON. SRI H. SITARAMA REDDI:—"The Government will welcome the applicants directly approaching the Director of Industries. There are a number of people who apply to us in spite of our instructions and the only course left to us is to forward such applications to the concerned party."

SRI R. SURYANARAYANA RAO:—"Are not the Government aware, Sir, that a communication from the Government carries a greater value with the distributing authority so naturally people come to the Government directly?"

THE HON. SRI H. SITARAMA REDDI:—"The officers have instructions that they should show no special favour because the application comes from a particular quarter."

ABDUL LATIF FAROOKHI SAHIB BAHADUR:—"Is the Government aware, Sir, that large quantities of iron and steel were allotted to and were sent outside the city by T. V. Sundaram Ayyangar & Sons, in their lorries?"

THE HON. SRI H. SITARAMA REDDI:—"I shall enquire about the matter, Sir."

SRI N. VENKATACHALAMAJI:—"Is it necessary to submit a petition for getting iron and steel?"

THE HON. SRI H. SITARAMA REDDI:—"Sir, permits are granted on a petition only."

II.—GOVERNMENT BILLS.

(1) THE MADRAS ENTERTAINMENTS TAX (AMENDMENT) BILL, 1947 (L.A. BILL NO. 28 OF 1947).

* THE HON. SRI B. GOPALA REDDI:—"Sir, I move—
'that the Madras Entertainments Tax (Amendment) Bill, 1947 (L.A. Bill No. 28 of 1947), as passed by the Assembly be taken into consideration at once.'

"Sometime ago, Sir, the Government published a Bill where the tax on all entertainments was fixed at 33½ per cent on the gross value of the ticket. Later the Select Committee that went into the question heard some representatives with regard to various matters and they have amended the original Bill and reduced the tax also in certain cases. For the first time we are making a distinction between other performances and dramas, music kutcheries, Indian dances and exhibitions. Previously, Sir, that Act did not make any distinction between cinematograph exhibitions and dramatic performances. They were all subject to the same level of taxation but for the first time the amending Act contemplates a preferential rate in the case of dramatic and music performances, Indian dances and exhibitions. It is well known, Sir, that Indian drama is being superseded, as it were, by the cinematograph exhibitions and it has not got the patronage from the people as it used to get previously. So the Select Committee thought it fit to levy a preferential rate for such performances, viz., 2 annas in the

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rupee on the gross value of the ticket up to Rs. 3 but if it is more than Rs. 3 but not more than Rs. 5, one-fifth of such payment and if it is more than Rs. 5, one-third of such payment. In the case of other entertainments, Sir, the tax will be if it is not more than 5 annas, one-fifth of such amount, i.e., 1 anna and if it is more than 5 annas and not more than Rs. 1-8-0, one-fourth of such payment, and so on. There is another principle, Sir, in the case of cinematograph exhibitions. The tax will be on the net value of the ticket whereas in the case of other entertainments including racing, sports, etc., the gross value will be taken into consideration when the tax is levied. As the members are aware 90 per cent of the proceeds arising out of this source of revenue will be distributed to the local authorities as the Corporation, municipalities, etc., where this tax is collected. So they get 90 per cent and the Government retains only 10 per cent for collection charges, etc. The local bodies can thus give greater facilities and conveniences to their people by way of better education, sanitation, etc., and I am sure the House will give its sanction for this Bill as amended by the Select Committee and as passed by the Legislative Assembly."

The motion was put and carried.

MR. PRESIDENT :—" I take it that there are no speakers."

Clause 2 was put and carried.

Clauses 3, 4, 5, 6 and 7 were put one by one and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI B. GOPALA REDDI :—" Sir, in moving that the Bill be passed into law, I am very happy that there were no amendments to the Bill and even without a discussion it has reached this stage. I am very thankful to the hon. Members of this House."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" That shows their confidence in you."

THE HON. SRI B. GOPALA REDDI :—" That shows their interest in the local bodies."

The motion was carried and the Bill was passed into law.

(2) THE MADRAS GENERAL SALES TAX (AMENDMENT) BILL, 1947
(L.A. BILL NO. 25 OF 1947).

* THE HON. SRI B. GOPALA REDDI :—" I move—

'that the Madras General Sales Tax (Amendment) Bill, 1947 (L.A. Bill No. 25 of 1947), as passed by the Assembly be taken into consideration at once.'

"Sir, in November last, a Special Officer was appointed to go into the question of the working of the general sales tax as it was passed in 1939 and to suggest any improvements in the method of taxation, etc., and to withdraw some of the exemptions which were

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given in the 1939 Act. In February this year the Special Officer submitted his report and the report was carefully examined in consultation with various commercial bodies and Mr. Karanth who was then in charge of this subject convened two conferences and invited various representatives of commercial bodies and as a result of those consultations a Bill was published some time ago. Then a Select Committee of the Legislative Assembly—I am sorry we could not get the co-operation of the members of this House, because then under the existing rules it was rather difficult to get a joint Select Committee—and so the Select Committee of the Assembly, went into the draft very carefully and received memoranda and representations from a number of commercial bodies and we had eleven sittings examining a number of representations coming from various quarters. The Select Committee transacted business as if it were a Tariff Board examining individual cases whether a particular commodity like tea and coffee could be subject to higher taxation, whether jute exports should be given a preferential rate or not, whether bullion can bear some taxation because it was having an exemption previously and if so what percentage it can bear and whether the sale of the luxury articles can bear any additional taxation and if so what was to be the percentage, etc. All these things were examined very closely and minutely by the Select Committee and a report was submitted to the Legislative Assembly. I am glad to find that the Legislative Assembly gave a very hearty welcome to the Bill as it emerged from the Select Committee and hon. Members of the Assembly were vying with each other to congratulate the Select Committee on their recommendations and without any amendment, they gave their sanction to its recommendations.

“The principle is that the sales tax which was one per cent previously is sought to be raised to $1\frac{1}{2}$ per cent which will give an addition of nearly $2\frac{1}{2}$ to 3 crores of rupees. The yield from sales tax is showing a rise from month to month even under the present arrangement and we expect something like 8 crores of rupees and with a $1\frac{1}{2}$ per cent sales tax for a full year, it may be between $10\frac{1}{2}$ to 11 crores of rupees.

“Some exemptions are being withdrawn. Bullion, for instance, which used to enjoy exemption previously is being taxed at one point only and that at $\frac{1}{2}$ per cent. We thought of including cotton but the Select Committee thought it fit to exempt cotton altogether and cotton will continue to be exempted as it used to be. Tea and coffee were being taxed at all the later stages except at the first stage. But hereafter, tea which will be exported outside the Province will not be subject to any taxation and it will continue to get complete exemption but internal consumption of tea is subject to this tax at $1\frac{1}{2}$ per cent at the first stage. We wanted to include coffee for taxation at the first point but in view of the fact that the Coffee Board at Bangalore under the aegis of the Government of India is the first seller and as the Government of India give us exemptions in respect of so many things, we

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thought it is not right that we should tax them. The Select Committee, therefore, thought that we should go into the matter in greater detail and see whether coffee could be brought under the first point taxation. Handloom cloth will be taxed only at one point, namely, at the last stage and up to that point it is tax free but only at the retail end it will be subjected to the full tax of $1\frac{1}{2}$ per cent. In the case of yarn, it used to enjoy complete exemption previously but hereafter, it will be taxed only at two points and the points will be prescribed under the rules and it will be at $\frac{1}{4}$ per cent, which will work up to only $\frac{1}{2}$ per cent, provided the tax is not passed on to the handloom weaver. We originally thought of ousting the jurisdiction of the civil and criminal courts also but the Select Committee thought that civil courts must be retained and as early as possible tribunals must be set up in order to see that, whenever the assessment is unduly heavy, it might be reviewed by an impartial tribunal. Thus we made several changes in the Select Committee and, therefore, it was acceptable to the House. If this House gives its sanction to this measure, it will give a source of revenue to Government. We are aware that the Excise income is dwindling and in the next year or the year after next, it will be completely wiped out. So far as land revenue is concerned, it cannot be enhanced because the ryots are clamouring for reduction. So, the sales tax must be our main source of income. With the taxes on luxury articles to the extent of a quarter or half an anna in addition to the general sales tax, it will bring in about 12 crores of rupees as conditions exist to-day. We are aware of many administrative difficulties and appeals to Government or to the Board of Revenue are not generally viewed with great favour. As in the case of Income-tax Act, a tribunal will be set up as early as possible so that many of the difficulties which the assesseees are subjected to may be redressed and I expect that the working of the Act will be to the satisfaction of those people upon whom the tax is going to fall and that it will yield a fairly good income to Government to meet the deficit on account of excise losses. I shall try to meet any arguments that may be raised during the course of the debate and I commend the Bill for the acceptance of the House."

* SRI R. SURYANARAYANA RAO:—"Mr. President, the Hon. the Finance Minister observed a short while ago that our silence was due to the fact that we were interested in some group, viz., the local bodies, as the entertainment tax is a real source of income to them. Therefore, we do not wish to register our silent acquiescence to this measure.

"Sir, I would like to say a few words about the Bill. First of all, I must congratulate the Hon. the Finance Minister on his sweet reasonableness in the Select Committee as I see it from the Report of the Select Committee which is published in the Gazette. He has tried to meet the points of view of those who felt that the imposition of the tax would cripple certain industries. I am particularly glad that in respect of the handloom cloth, he has

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yielded and I do not know what the effect will be, whether we will pay in the same manner as we do now or the tax will be higher than what we are paying now. As regards yarn, he said that it would be taxed at two points. I plead, Sir, that unless special steps are taken, it is just possible that the tax may be passed on to the handloom weaver. Every effort should be made to see that no further burden is thrown on the handloom weaver and the handloom industry does not suffer. As regards tea, I thought that Government were interested in promoting counter-attractions to the ex-addicts. I saw in the papers pictures of Hon. Ministers standing in places where toddy shops were run and drinking cups of tea. I felt that as a first step, they would like to encourage tea-drinking among the addicts and at least for some time if tea had not been taxed till this demon is got rid of and people get used to prohibition; it would have been better. I think the Government would have been wise if they had not taxed tea as they would have also made tea cheaper and provide a real counter-attraction. I hope, Sir, the Hon. Minister will not tax coffee because we are coffee addicts. But still if it is to be taxed, I would prefer coffee to be taxed rather than tea, because tea is the poor man's drink. We want to encourage the starting of tea shops wherever there were toddy shops and make it worthwhile for people to start them and enable addicts to take to it instead of to drink. I wish that tea had not been touched at all. At the same time, we realize that Government is faced with a large deficit and it is but right they should try to tap sources from which they can secure enough to make up the loss in income due to prohibition. I am sure that is why the other House did not even move amendments in order to enable the Hon. the Finance Minister to have the necessary funds to carry out the prohibition programme. I am a believer in the prohibition programme and so, I feel, that in bringing forward this Bill and in accepting also in the Select Committee various changes, the Hon. Minister has shown a large amount of sweet reasonableness which, I hope, he will continue to show when he deals with other measures."

* K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—
" Though members of this House had no opportunity of sending their representatives to the Select Committee, we were glad to know from the Press that the Hon. the Finance Minister has been very accommodating to the representations made by the people concerned and the arguments of the members of the Select Committee. I, therefore, join in the congratulation that has been extended to Hon. Finance Minister by my hon. Friend Mr. Suryanarayana Rao.

" On a perusal of the Bill as it originally stood and the Bill as it has emerged from the Select Committee and the Assembly, we find that several obnoxious features have been removed; of course it is due to the accommodating spirit of the Hon. the Finance Minister and one such important feature is the removal of the tax on commission agents. There were days when Government were

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“ Another point I would like to urge is this : the House may be aware that the tanning industry is the biggest export industry of this Province. Raw materials like wattle bark have to come either from outside the Province or even from outside the country. Even raw hides and skins have to come from outside the Province. I know this tax is to be taxed only at one stage, even then we must consider whether the tanning industry can withstand this. Now it is well known that finished hides and skins have to be sent out to Europe and America to be sold. It is very difficult for the industry to prosper if this tax is imposed. As I pointed out the raw materials have to come from outside and the finished product has to be exported to foreign countries for being sold. Therefore from what I know about this trade I can say this trade cannot withstand this taxation even at one point. So I would appeal to Government to reconsider whether it is not possible to avoid this taxation on this large industry in the Province, and whether Government cannot come forward to exercise in its favour the option given to it to exempt certain industries. 12 noon.

“ Another item I would refer to is regarding bullion, meat, fish, eggs and vegetables. Sir, bullion, as we all know, has altogether a different significance in this poor country of ours. Most of the people in the villages invest their savings in the purchase of silver and gold to be manufactured into jewels. The banking system has not become very popular among the rural population. So taxing purchase of bullion means taxing these poor people, who want to invest their savings in the purchase of gold and silver. I would therefore suggest that the tax on bullion may be completely removed.

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“ With regard to meat, fish, eggs and vegetables, these are all perishables, and so it is not proper these perishables should be taxed. Further the people who deal in these perishables are generally illiterate and they cannot be expected to keep accounts. For example, mutton shop-keepers are mostly illiterate, and even if they are educated it may not be possible for them to keep accounts. I do not think Government will get much from the levy of this tax on these dealers. These are the concrete suggestions I want to make on this Bill. I hope Government will give due consideration to these matters before bringing it into force.

“ There is another aspect of the Bill to which I wish to advert for a minute. The Hon. Minister referred to the provision to be made for appeals. I hope he will set up the tribunal as early as possible. Further new section 16-A will, I feel, work hardship on dealers. It provides that the validity of the assessment cannot be questioned in any criminal court. The gravamen of the charge may be the assessment itself. There must be some provision to enable the assessee to question the validity of the assessment even in criminal courts in suitable cases, if not in all cases.

“ Finally, Sir, we have to support the sales tax because we have been all in favour of total prohibition. Though on principle, I would say it is not a proper tax as it taxes the rich and the poor alike—or rather I would even say, as it taxes the poor even on their every day necessities of life, yet since we have to make up the money lost by launching on prohibition we have to support the measure. I hope in the actual working of the measure merchants will not be subject to harassment.”

DR. V. K. JOHN :—“ Mr. President, Sir, while I appreciate the urgent need for larger revenue, Government should remember that the levy of sales tax is not based on any principle. We have heard much about the urgent necessity for more revenue. It is justified on the basis of necessity. But it is not based on any principle whatsoever. We can understand a man being taxed on his income, but not when he enters into a business. Now if we analyse what the Government do, it will be seen that they take a share—I would even say, a very large share— $3\frac{1}{2}$ per cent at every stage, as is stated here, amounts 15 per cent or 20 per cent or 25 per cent or even more. The Government take a very large share in the price of goods and not in the profit that is made by anybody—in the value of the goods without investing any money and without taking any risk in the trade whatsoever. The portion given to the Government in the original sales tax was very low, that is, half a per cent; but in the amending measure it is 3 to 5 per cent which is exorbitant. Although this is called sales tax, it is a misnomer to call it so; for it is clearly a purchase tax on the buyer, who consumes the article purchased. You are in fact taxing everybody who purchases except perhaps with a very few exceptions. Now the burden of this tax will fall upon the poor men. The popular Government always says ‘ we are for the poor, we want to help the

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poor, we want to improve the condition of the poor'; but it does not realize that by reason of this apparent $3\frac{1}{2}$ to 5 per cent sales tax, it really works out to 20 to 25 per cent and more, which is imposing an intolerable burden on the consumer. Therefore I say that Government should consider this measure only as a temporary measure; if it is made a permanent measure it will take a very large portion of the income of the poor; it is a tax on the purchaser and the consumer; and though it is called a sales tax. I should not be surprised if this tax hampered trade and industry in this province, unless it is introduced in the neighbouring provinces.

"Sir, I would not be surprised if this Government bring in other taxes! For example, they might say, if I enter a saloon to cut my hair four annas might be collected from me as tax to Government; if I enter a railway compartment I should pay a tax; or if I enter my car I should pay a tax. Sir, the sales tax and such other taxes are not based on any principle; taxes must be based on income. These taxes will only drive away trade and industry from this Province.

"Now, Sir, this measure is defective from another point of view. The original Act was defective because it excluded the jurisdiction of civil courts to question the assessment of sales tax. From the assessment of the revenue collecting officer, an appeal lay to his superior executive officer, and from there is a revision by the Board of Revenue, and everybody, who has had to complain of assessment, knows what little justice is got from this machinery. Compare with the income-tax levy. The Income-tax Act is a well-worded Act on which there are many decisions and everybody is certain that too many provisions there are not left uncertain. Now, there, you can appeal from the Income-tax Officer to the Assistant Commissioner, and from him to the appellate tribunal not controlled by the Commissioner of Income-tax; and from there, if there is a question of law, you can refer it to the High Court, and from there you can go in appeal to a higher Court. Now in the case of income-tax the Legislature has provided for an independent tribunal to go into the matter. Why was not such a thing provided in the original Sales Tax Act? When a merchant is paying more by way of sales tax than by way of income-tax, why should the jurisdiction of courts be excluded to inquire into them."

THE HON. SRI B. GOPALA REDDI :—"May I point out to the hon. Member that in the Bill, as reported by the Select Committee, we have not ousted the jurisdiction of civil courts."

DR. V. K. JOHN :—"In the original Sales Tax Act, there is no jurisdiction for civil courts and that has not been touched. The Hon. Minister perhaps does not know that under the General Sales Tax Act we cannot carry the matter to a court of law. We must appeal to the appellate authority provided in it and that is above the officer who collects the tax. From there you

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go in revision to the Board of Revenue. You are increasing the sales tax by an enormous amount, i.e., from $\frac{1}{2}$ per cent to 3 or 5 per cent and you propose to collect crores of rupees from the subject. Should you not give the subject the privilege, the freedom to go to a court of law if the assessment is illegal? You raise the tax. It is not small. The tax is very much higher than the income-tax and no civil court has jurisdiction. Not only that, they are also excluding the jurisdiction of the criminal court.

"I have very often said, Sir, that when they amend an Act, they should place side by side at least the sections which are amended so that the Members of the Legislature might know the nature and import of the amendments. I think that most of us here do not have copies of the General Sales Tax Act to study and compare the import of this amendment. Section 15 of the original Act provided for offences and penalties. If a man submits a false return, or fails to pay the tax . . . he can be prosecuted and convicted. What does new section 16-A in the amending Bill say? It reads :

'The validity of the assessment of any tax, or of the levy of any fee or other amount, made under this Act, or the liability of any person to pay any tax, fee or other amount so assessed or levied shall not be questioned in any criminal court in any prosecution or other proceeding whether under this Act or otherwise.'

What defence has a man got if he is wrongfully prosecuted and if he has not wilfully failed to give a return? The amendment says that the Magistrate cannot enter into the question whether an offence has been committed or not. If the taxing officer says that you have wilfully neglected to give a return then the jurisdiction of the criminal court is taken away. I do not know why this Government should be afraid of courts of law. Will not the Magistrate be competent to go into the question which an executive officer can go into. 'Wilfully' is a matter for legal interpretation. When the magistrate was competent to go into this question and he has gone into this question from 1939 why should this be taken away now?"

THE HON. SRI B. GOPALA REDDI:—"We have retained the words 'civil courts,' Sir."

DR. V. K. JOHN:—"The jurisdiction of the magistrate to give a finding whether an offence has been committed or not under section 16 of the Act is now taken away. I say that this is just in keeping with the pieces of legislation which we have passed excluding the jurisdiction of the courts. Not only that in many portions of this Act the Government have taken power to prescribe very important matters. For instance section 3 says: 'Subject as aforesaid, the sale of any of the goods mentioned below shall be subject to a tax at the rate specified in respect thereof, at such single point in the series of sales by successive dealers as may be prescribed.' Therefore, the Government takes more and more power. This Act just gives them power to do anything they like.

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It excludes the jurisdiction of courts, it increases revenue oppressively, it not only excludes the jurisdiction of the civil courts but also the criminal courts and then they take so much general power by using the words 'as prescribed.' 'As prescribed' means as ordered by the Government. Therefore I would say that they are taking away the jurisdiction of the Legislature and they can do anything. Under the General Clauses Act the rules framed by the Government under the Acts should be placed before the Legislature. But that has been amended. They can simply frame the rules and publish them in the gazette. They are not satisfied with amending the original Act. An they have taken on themselves all the powers to do what they like under the Act. That is how they are excluding the jurisdiction of the Legislature also. I say, Sir, that this is not a model piece of legislation. Of course, they want more revenue. I am against those people who say that the Government should not be given the tax that is due to the Government and that the Government should not collect more revenue. Because after all, a Government, particularly a popular Government, spends the money for the people. Of course we criticise them. But we also realize the object before them and that they are striving honestly to achieve that object. Therefore I say that taxes should be paid. But give them the freedom to go to a court, and then it will be a piece of legislation which would be normal and which will satisfy the needs of the public and also satisfy the needs of the Government. I hope, Sir, that before long the Sales Tax Act will be revised because as I said originally it was passed on no principle whatsoever."

MR. PRESIDENT :—" As regards the point raised by Dr. John, with which I also agree, hereafter in the case of an amending Bill the Government may be pleased to print the relevant original sections"

THE HON. SRI B. GOPALA REDDI :—" They can always have the original Acts, Sir."

MR. PRESIDENT :—" I myself felt some difficulty in going through the amending Bill. I was not able to know which section was to be amended and we cannot expect hon. Members to have copies of the original Acts; they may not be available. I therefore think it is better when the Government print the Bill they also print the relevant primary sections so that we may know how it is going to be amended. If the Hon. Minister does not want a ruling he may take my suggestion."

* SRI P. VEERABHADRASWAMI :—" Mr. President, Sir, it is natural that every Government should want more money for its administration and therefore it would be necessary for them to collect new taxes or enhance the existing taxes. Our Finance Minister feels that there will be a huge deficit this year and he fears that these deficits will recur in the future also. The Government have many devices of getting more money and the present

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Bill is one of the devices to which he has resorted to find more money because the administrative cost is mounting more; the services are dissatisfied because the cost of living has gone up and they find it very difficult to pull on and therefore they want more salaries. And there are nation building schemes waiting to be completed. Therefore we cannot find fault with this popular Government when it resorts to new taxation. This is a tax that is levied on almost all the people in the Province and every one's pocket is touched. As every tax is unpopular this tax also is unpopular but we have to face facts and give the necessary support to the Government. Sir, I would have welcomed it if the Hon. Finance Minister had levied this tax at one point. It may be high, it may be even 3 per cent but the administration, the levy of the tax and its collection would have been more easy, and the expenditure for collecting the tax also would have been far less. Since the Select Committee has made a good number of changes in the original Bill the Bill as it has emerged from the Select Committee has to be welcomed. But, Sir, there is one difficulty which I have to point out. The minimum taxable sales amount has been reduced from Rs. 10,000 to Rs. 7,500. The poor and small traders who cannot keep accounts will be hit hard because the officers would not be able to calculate the sales amounts. There may be some amount of injustice done to the petty traders. The general complaint by the traders is not about the way in which it is administered. Certainly the officers call for accounts just a few hours before they have to be checked and the poor traders find it inconvenient because they may not find their clerks in time to give the accounts to the assessing officers and in case there are any defaults very severe penalties are imposed upon them. The traders have no objection to make periodical payments but they should be made just on the lines of the income-tax. The income-tax assessment has been found to be very easy and convenient. Sufficient time is given to them to produce their accounts and they are carefully scrutinized and assessments are made. The Sales Tax Officers generally resort to penalties. I would request the Government to see that as many facilities are given to the traders as possible.

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"The jurisdiction of the courts has been restored. It is a welcome feature. Our Finance Minister should not be satisfied with that. He should institute a tribunal on the lines of the income-tax tribunal. The Government will have to watch how the Act will affect the different industries and trades and suitable changes should be made after gaining sufficient experience. I heartily support the Bill."

* DR. SIR A. LAKSHMANASWAMY MUDALIYAR:—
"Sir, I want to put one or two questions to the Hon. Minister with regard to the possible effects of this tax in the direction of the dispersal of our industries and trade to other provinces. After the General Sales Tax Act was passed the Imperial Tobacco Company which had its headquarters at untur shifted it to Bangalore. One of the most important things we have to watch is

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that as a result of the sales tax many of the agencies which are now doing business in this presidency may be transferred from this presidency. Take for instance motor cars and vehicles. It will be very easy for a person to settle down in Bangalore, Cochin, Trivandrum and even Berhampur and get all the things wanted by the people in this presidency and for the latter to go there and get their cars and other things and thus evade the sales tax. On a 10,000 rupee car the sales tax will be appreciable—about 325 to 350 rupees. It should not be difficult for many persons to go there and get their cars, refrigerators, electric goods and so on.

There are two possible methods of solving this difficulty. If the difficulty is not solved, this province will be ruined so far as trade and commerce are concerned. One method is for the Finance Minister to use his good influence with his colleagues in the other Provinces and States, have a conference and see whether a general policy could not be laid down with regard to the sales tax. I realize the difficulties. But I feel that inasmuch as for the present a uniform policy is likely to be pursued owing to a certain amount of direction being given from other sources, it cannot be altogether out of the question to think of such an idea in the first instance. If however such a conference does not materialize or yield the results that we expect, I would suggest, in the interests, of those who are carrying on the trade and commerce in this presidency to bring in an amending measure to this Act so as to prevent persons from here going and purchasing many of the goods elsewhere and thus evading the sales tax and indirectly setting up agencies round about this presidency through persons who are not normally residents of this presidency. The general effect of the great increase in the sales tax will be, human nature being what it is, to evade the clauses under this Act. As a consequence, the rich will benefit and the poor will suffer all the more. I am sure the Hon. the Finance Minister who is getting this Bill passed with so much good will from both the Houses, will not allow this opportunity to slip of examining the question further and he will let us know periodically what the effect of the general sales tax is on the trade and commerce of this presidency."

* THE HON. SRI B. GOPALA REDDI :—" Sir, the point raised by the hon. Member Dr. Sir A. Lakshmanaswamy Mudaliyar was fully considered by the Select Committee and in fixing the tariff of 6 pies and 3 pies above the general sales tax we took into consideration all the relevant facts and factors. When we introduced the sales tax in 1939, we had the disadvantages of being pioneers. All kinds of criticism was levelled against our Act. Subsequently, owing to the fact perhaps that other provinces also required a lot of money, they introduced the general sales tax. Now all the provinces without exception—Bombay, United Provinces, Bihar and Orissa—are having some sort of general sales tax. Cochin has copied almost verbatim the General Sales Tax Act. An officer from Mysore was deputed to our Board of Revenue

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to examine this question. The Finance Minister of Mysore has written to me to say that they are thinking of levying a sales tax. Even in French India they are thinking of a sales tax. So far we have not heard anything about Travancore. Even Hyderabad has introduced a general sales tax, but it is on luxury articles. They have specified about 48 articles and they have levied rather a stiff tax. Province after province is copying our Act. There is therefore no fear of the dispersal of our industries to other provinces and the possibility of avoiding the tax—I do not call it evading—by diverting normal trade channels to other provinces.

“Originally when the amending Bill was published we thought of putting a stiff tax of 2 annas in the rupee on luxury articles. In the Select Committee we calculated how much it would cost to bring a motor car by road from Bombay or some other Province to Madras. We decided to levy an additional tax of only 6 pies in the rupee in addition to the $1\frac{1}{2}$ per cent. Even in Bombay they have a $3\frac{1}{8}$ per cent tax on motor cars purchased in Bombay. That will come to Rs. 300 or so on a 10,000 rupee car. It will cost Rs. 200 to Rs. 300 to bring the car by road. We took this into consideration and fixed a tax of 6 pies in the rupee on motor cars. This will not divert our usual trade in automobiles from this province. All these relevant factors were fully considered. We acted as a tariff board. We took into account the cost of these things and saw to it that our trade was not diverted from our places and harbours.

“There was another provision given to the Government in the Select Committee but the Government did not want it. The provision was to the effect that the Provincial Government may by notification in the *Fort St. George Gazette* make exemption or reduction in rate in respect of any tax payable on certain articles. We received several representations from British Cochin where the position is peculiar. The godowns are on the Cochin side and the head offices are in British Cochin. Then they are subject to both the Cochin sales-tax and the Madras sales-tax. Representations were received by the Government and the Select Committee thought it fit that Government should have the power to exempt or reduce the rates. They did not give the power to enhance the rates, but only for exemption or reduction in the rate. It is a very huge responsibility thrust on the Government and it is very irksome for any Minister to administer this Act. We thought that a standing advisory committee should be set up which will from time to time scrutinize the working of the rules, the Act and the other administrative difficulties which arise. Much of Dr. V. K. John's criticism can be met by the setting up the standing advisory committee. I am sure some of the Members of this House will be nominated to the Committee. They can examine all the rules. Even as it is, the turnover rules have to be approved by the Legislature—the Legislative Assembly. As regards the other rules prepared by the Government, the Standing Advisory Committee will be taken into confidence. They can scrutinize the rules and obnoxious provisions, if any, framed by the Government in

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exercise of their powers as it were, can be obviated. The Advisory Committee will be a very good institution. It can create its own conventions. As far as I can see, the dispersal of trade or diversion of trade is not possible, because all other provinces are imposing this tax.

" So far as we have not heard any complaint that the head offices of any concern are being removed to Bangalore or other provinces. I knew the shifting of the tobacco company. But tobacco is subject only to the Central Excise. The Central Government are giving us Rs. 22 lakhs. We are not permitted to tax tobacco at any stage. Therefore here the question of removing the tobacco company's offices from Madras does not arise.

" Sir, the 1939 Act gave powers to the civil courts and the criminal courts. In the amending Bill we wanted to oust the jurisdiction of the civil and criminal courts. But the Select Committee restored the jurisdiction of the civil courts and ousted the jurisdiction of the criminal courts only.

" The hon. Member, Dr. John waxed very eloquent about the Income-tax Act. That Act has been in existence for 40 years. It is not even 10 years since this Act has come into force. The department is not made permanent. The Manual is not yet ready. The whole thing is temporary. We are taking steps to see that the department is made permanent from 1st April 1948 and the Manual is got ready. The question of a tribunal also is engaging the active consideration of the Government and it will come very soon as an amendment of this Act itself.

" With the standing advisory committee on one side helping the Ministry and the tribunal on the other side, I think all the difficulties can be removed to a great extent. As regards criminal courts, we have examined the Income-tax Act again. Under that Act the criminal court has no jurisdiction on the question of assessment once it is made. The civil courts are there for the time being and at any time, before going to the Revenue Board or after getting the verdict of the Revenue Board, an aggrieved person can always go to the civil court and get a decision in his favour. We are only ousting the jurisdiction of the criminal court, because there was conflict of judgment between a criminal court and a civil court and confusion was created. We are justified in saying that the criminal court need not go into the question whether the tax is legally due or not, but can only go into the question whether the assessment is properly made or not. When the tribunal is set up, I hope that many of the difficulties will be obviated and that the working of the Act will go on smoothly.

" As regards bullion, we are aware that it is the poor man's investment. So we have not subjected it to the usual tax of $1\frac{1}{2}$ per cent, but only to a tax of $\frac{1}{4}$ per cent, which comes to only four annas for a turnover of Rs. 100. In 1943, the Advisers Government imposed the usual tax of 1 per cent for one year, and realized 22 lakhs of rupees. As a good deal of transactions in bullion was diverted to Bangalore and other places, they removed the tax

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altogether next year. Just now we want to see whether bullion can bear this $\frac{1}{4}$ per cent tax without the trade being diverted to places outside the Province. We shall watch the position. The Standing Advisory Committee can go into the question from time to time and suggest any amendments, if necessary.

“ Regarding perishable articles like vegetables, fruits, eggs and mutton, we have shown a little concession. The dealers in these articles will be taxed only when their turnover reaches Rs. 20,000. Those whose turnover is Rs. 10,000 and above but below Rs. 20,000 will not be taxed, but they have to get licence and maintain accounts for inspection by the Commercial Tax Officers. It has been contended that many of the dealers in these articles are illiterate and that they should be exempted. The muttonwallahs, vegetablewallahs, fruitwallahs, etc., have been paying the tax for the last eight years and I don't see why they should be exempted now on the ground that they are illiterate.

“ Regarding tanning industry, we have not done anything though we wanted to bring it within the operation of this Bill. At present, the tax is levied at 1 per cent on the purchase value of the hides. We wanted to levy the tax on the sale value, and it makes a lot of difference. But we decided not to do anything till we go further into the question whether the trade can bear the difference in tax. Instead of 1 per cent, it will be taxed at $1\frac{1}{2}$ per cent like other commodities, and that too only on the purchase value.

“ The Provincial Textile Commissioner is being asked to see that the $\frac{1}{4}$ plus $\frac{1}{4}$, i.e., $\frac{1}{2}$ per cent tax on yarn is not passed on to the handloom weaver. Yarn is regulated by the Government of India and some percentages are being fixed. When it comes to the handloom weaver, I think the percentage is about 18 or 20. This tax also has to be adjusted within that 18 or 20 per cent. As long as there is control on yarn and textiles, we will see that the tax is not passed on to the handloom weaver.

“ Tea is being taxed only at the first point, because it is considered to be an agricultural product. But as a matter of fact, it is not a purely agricultural product. For income-tax purposes, I think 60 per cent is taken as agricultural product, and 40 per cent as industrial product because it passes through several processes before it is marketed. We considered the question as to what extent tea was an agricultural product and an industrial product and we decided to tax only the tea consumed within the Province, which is only a small percentage of our total export. But the exported tea will continue to enjoy exemption, because tea has to face keen competition in the London market just now. South Africa and Kenya in particular have increased their acreage under tea. London has reduced her consumption of tea by some millions of tons. Considering all these things, we have allowed complete exemption to exported tea. We shall see whether tea cannot bear the tax and tax it under section 6 which gives a very

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wide power to Government. Tea has become costly and I don't expect that it will become more costly. We shall have the question examined by the Standing Advisory Committee.

" Nothing is being done with coffee for the present, and this question also will be considered. Dr. John was repeatedly saying that the tax on it would be going up by 20 to 25 per cent. I don't know from where he got these figures. On no commodity will the tax come to 20 to 25 per cent. On an average it comes to about 3 to 4 per cent, and the General Sales Tax is only $1\frac{1}{2}$ per cent. The total comes to $4\frac{1}{2}$ to 6 per cent. Even on luxury articles like motor cars and electrical goods, it does not exceed 3 to 4 per cent. After all, luxury articles are taxed only at one point whereas the General Sales Tax is levied at all points. There is no point in saying that the tax comes to 20 to 25 per cent on the gross value of the commodity.

" We shall watch the administration of the Act very carefully. When the Standing Advisory Committee is set up, nothing will be done without placing the matter before the committee. Early steps will also be taken to appoint a tribunal. This Act will not be very oppressive on the poor dealers and they must pay the tax very cheerfully. I have nothing more to add except to say that I am very thankful that the House has given its general approval to the Bill."

The motion was put and carried.

Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 1 and the preamble were separately put and carried.

THE HON. SRI B. GOPALA REDDI :—" I move—

' that the Bill be passed into law. '"

DR. V. K. JOHN :—" With the permission of the Chair, I want to say a few words about the jurisdiction of the court. The Hon. Finance Minister seems to think that the jurisdiction of the civil court is not excluded but that the jurisdiction of the criminal court only is excluded by the amendment. According to section 11 (1) of the 1939 Act, which is not amended :

' Any assessee objecting to an assessment made on him may, within thirty days from the date on which he was served with notice of the assessment, appeal to such authority as may be prescribed. '

The authority prescribed by the rules is an executive officer in the cadre of Deputy Collectors. According to section 11 (4) :

' Every order passed in appeal under this section shall, subject to the powers of revision conferred by section 12, be final. '

Section 12 deals with the revisional jurisdiction of the Board of Revenue."

* THE HON. SRI B. GOPALA REDDI :—" As far as the Government are concerned, the decision shall be final. It does not mean that we have ousted the jurisdiction of the court."

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DR. V. K. JOHN :—“ According to the section I have quoted, the decision of the appellate authority under section 11, namely, the Commercial Tax Officer, is final, and no suit can be filed against the Government or the officer who is concerned with the decision. Therefore, I say that the jurisdiction of the civil court was excluded in the original Act. I am sorry that the Hon. Minister thinks that the jurisdiction of civil courts is not excluded. The authority prescribed in section 11 may be an independent tribunal, which they can do without amending the Act. If that be the intention of the Hon. Minister, I hope the House and the public will be glad. But to-day it is not an independent tribunal, but an executive officer.”

* THE HON. SRI K. MADHAVA MENON :—“ I don't think that Dr. John is right in harping on the point that the jurisdiction of the civil court has been completely taken away. It is specifically provided in section 18 :

‘ No suit shall be instituted against the Crown and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Provincial Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.’

So a suit or proceeding can be launched within six months. To say that the jurisdiction of the civil court is taken away is curious.”

SRI B. NARAYANASWAMI NAYUDU :—“ It is against individuals, but not with regard to assessment.”

* THE HON. SRI K. MADHAVA MENON :—“ It is not only against individuals.”

* THE HON. SRI B. GOPALA REDDI :—“ Some time ago, I answered a question in this House which was, I think, put by Sri R. Suryanarayana Rao regarding how many appeals were preferred in the civil court, how many were upheld and how many were set aside and so on. I did give the number of cases, though I do not remember it now.”

DR. V. K. JOHN :—“ May I assure the Hon. Minister that on assessment the decision of the appellate authority is final under section 11 and that no appeal lies to any court? ”

* THE HON. SRI B. GOPALA REDDI :—“ Section 11 contemplates that so far as the Revenue Board has disposed of the appeal, it is final. But it is open to the aggrieved party to move the matter in a court.”

1 p.m. SRI B. BHIMA RAO :—“ Sir, civil suits have been filed in the Kistna and Bellary districts and have been decreed and appeals are pending.”

* K. T. M. AHAMED IBRAHIM SAHIB BAHADUR :—“ Mr. President, Sir, the Hon. Finance Minister said that the Government is contemplating whether the tanning industry can be taxed

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at the sale point. In this connexion I would like to point out that the Government of India itself has felt that the tanning industry is in a very difficult situation and that is why it has sent out a deputation at its own expense to England, America and to the Continent to explore in what way the export of tanned skins and hides can be accelerated and facilitated. The very fact the Government of India has sent out this deputation under the leadership of Mr. Jamal Mohideen Sahib, shows that the industry is in a somewhat difficult situation and that it is not advisable to tax it, either at the sale point or even at the purchase point.

"Another point which I should like to mention, though it is only a small point, but which affects a very important and influential section of the assesseees, namely, the Press, is this. There is provision made in this Bill for taxing newspapers. It is true that the newspaper reading public will not be asked to pay the tax, but that the proprietors will pay. And we know that except a few newspapers, all others are not being run at a profit. I would also point out that taxing newspapers is taxing knowledge and I would suggest that in exercise of the powers vested with the Government, newspapers may be exempted."

The motion was put and carried and the Bill was passed into law.

MR. PRESIDENT :—"The House will now adjourn to meet again at 3 p.m."

(After lunch—3 p.m.)

(3) THE MADRAS SUPPRESSION OF IMMORAL TRAFFIC
(AMENDMENT) BILL, 1947 (L.A. BILL NO. 17 OF 1947)

* THE HON. SRI K. MADHAVA MENON :—"Sir, I move—
'that the Madras Suppression of Immoral Traffic (Amendment) Bill, 1947 (L.A. Bill No. 17 of 1947) as passed by the Legislative Assembly be taken into consideration at once.'"

SRI R. SURYANARAYANA RAO :—"Sir, I rise to a point of order. The Bill was considered by a Joint Select Committee of both the Houses. While the Select Committee report has been presented to the other House—I was myself a Member of the Select Committee and I know what happened—no such report has been presented to this House. I do not know what the rules are; but I think when a Joint Select Committee is set up . . ."

THE HON. DR. P. SUBBARAYAN :—"Might I point out, Sir, for your consideration that a Joint Select Committee is appointed in order to see that Members of this House also take part in the deliberations of the Committee and the Government, as usual, can either present the Bill in the one House or in the other House."

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And as the other House met before, naturally, my Hon. Colleague presented it in that House. And when it was passed by that House, it naturally comes before this House. Of course if there are any amendments, Members are entitled to move them; but there is no question of disregarding the self-respect of either this House or of the other House. Therefore, Sir, I do not see what valid objection my hon. Friend Mr. Suryanarayana Rao can take to the procedure just now."

* THE HON. SRI K. MADHAVA MENON :—" Under the rules, Sir, the Assembly passed a resolution requesting the Council to agree in the appointment of a Joint Select Committee. The request was made to this House, by a resolution of the Assembly, to agree to a Joint Select Committee by nominating certain members to the Committee. As a matter of fact, the committee was appointed by the Assembly and the report was therefore presented to the Assembly."

MR. PRESIDENT :—" But what is the objection of the Government in giving to the members of this House a copy of the Committee's report."

SRI B. BHIMA RAO :—" I think, Sir, we ought to have a copy of the Select Committee's report."

MR. PRESIDENT :—" Inasmuch as the Members of this House were participating there in the Committee, it is better to give copies."

SRI B. BHIMA RAO :—" In the case of the General Sales Tax Act Bill, we have got the report of the Select Committee. What was the reason in this case for not furnishing copies to us? "

* THE HON. SRI K. MADHAVA MENON :—" Sir, the report of the Select Committee should have been given to the members; anyway, in this particular case, the Select Committee did not make any changes except in one instance, about the age, i.e., they reduced the age from 35 to 30. So it is only a matter of technical importance. In the case of Select Committees that are going to meet hereafter, we shall certainly observe this formality."

" Sir, this matter has already been presented to the House when I moved for the appointment of the Joint Select Committee. I only want to remind the Members now as to what this matter is about, for the information of those who were not present here at the time. Under section 12 of the Madras Suppression of Immoral Traffic Act, 1930 as it stands now, whoever in any street or public place solicits any person for the purpose of prostitution in such manner as to cause obstruction, annoyance or danger to the residents or passengers, or to offend against public decency, or frequents such street or public place for the purpose of prostitution or of solicitation so as to constitute a nuisance, or to offend against public decency, is liable to be punished with imprisonment for a term which may extend to two months, or with fine which may extend to one thousand rupees, or with both. This is the only

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section of the Act which provides for the conviction of the prostitute herself. Generally such girls or women are sentenced only to imprisonment for a fortnight or one month, during which period they are detained in the Penitentiary, Madras. Detention in a jail does not give the girls or women a chance to reform themselves, and it is even likely, on the other hand, to make them criminal in addition to being immoral. The Government of Madras have received representations from various associations that as far as possible, this sort of reformatory treatment should be given to these people. The Government consider that girls or women convicted under the Act should not be sentenced to imprisonment, but should be certified and committed to a Vigilance Home. Accordingly, this legislation has been undertaken on the lines indicated by me and the necessary provisions have been made. Therefore, instead of detention for two months in jail, detention for a period of not less than two years is put in, so that they may be taught some art or trade or calling other than the one which they were practising before, so that they may become useful to the society and useful to themselves. The idea is to have a separate vigilance home, to give sufficient training to these girls or women; and in the Bill, as it has emerged from the Select Committee, there is no particular change made, except that for the age 35, 30 years has been put in; we thought that perhaps after that age, they would be beyond redemption. There is no other change made. When the Bill was discussed in the Assembly, some members, particularly the Lady Member, Mrs. Amiruddin, raised the question, which is very pertinent, as to why punishment in such cases should be confined to women and there should be two different standards of morality for men and women, that if a prostitute is punished, the man responsible for the prostitution should also be punished. That is not of course part of this legislation, but that was a very interesting point to be considered also. I have nothing more to add, Sir, and I move that the Bill be taken into consideration."

MR. PRESIDENT:—"It is therefore a sheer matter of kindness—enhancing the sentence from two months to two years?"

* THE HON. SRI K. MADHAVA MENON:—"It is a serious matter, Sir, enhancing the punishment from two months to two years; and that is why it was considered by a Select Committee. It might be thought, as you suggested, Sir, that it was only an increase of punishment from two months to two years; but on the other hand, the opinion of the Select Committee, particularly of the women members of the Select Committee, was that it was no question of punishment at all, that it was a sort of certified school that we should have where these people could be given some sort of training for two years, instead of keeping them in an atmosphere of jail, keeping them in a more homely atmosphere where they may be made to feel that they can lead a better life, so that it would not be a punishment but certainly a definite reform of these people."

MRS. HENSMAN:—"Mr. President, Sir, we must congratulate the Government on their having brought forward a

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measure like this. It certainly affects public morality that there should be deterrent orders and deterrent effects for any person behaving in such a way that the Hon. Minister has already read out. I am glad, Sir, that the Hon. Minister has cut the ground from under my feet by talking about equality of punishment for equal crimes, but that does not enter into the question just now before us. It certainly is a matter for thought and women will think over the matter a great many times before exercising one of the oldest professions of womanhood, if they fear a two years' detention instead of a two months' detention. In regard to this Bill, I should like to know in general from the Government, and in particular from the Hon. Minister, whether the Vigilance Home, the corrective house as we call it in this Bill, will be immediately set up as soon as this Bill passes into law and is implemented in practice, or whether he proposes to use the already available means on paper, as to where these ladies can be kept. I think it is a fact that the present Suppression of Immoral Traffic Act has been extended to 65 areas in this province. I also believe it is a fact that not more than one or two homes really exist at the present moment. There may be more—most of them is on paper—but a mere apology for a home, I mean some of those that have been visited by us who are on the Board for the Suppression of Immoral Traffic. When Dr. Muthulakshmi Reddi in the year 1930 first initiated this Bill, it was very much in her mind that there should be two kinds of places where these women could be sheltered. One, as the Hon. Minister has said, is not a penal or punitive home; it will be for rehabilitation into ordinary life just as much as we are trying to rehabilitate the military personnel of both sexes into civilian life again. Sir, the present Homes that exist—I will take for example the Home in Madras, in Katcheri Road, Mylapore,—is a Home not for punitive measures or corrective measures; it is a home for all those girls who have to study or learn another way of life, who have voluntarily and without any restraint from outside, preferred to live there and learn the occupations of womanhood in a new walk of life. And, Sir, is it right that girls who have been brought in, not because of what we may call for the sake of paper, legal offences,—that they have broken the law of a particular country or of the particular district they are in—that they should be brought into this very Home, where girls are choosing to marry, to learn the arts of womanhood and to practise all the things that will lead them away from the wrong living that has been their lot in the past. I grant that two years is quite a short time to change the women's outlook. It may be that after they leave those Welfare Associations, they may come under the influence of other ladies who may try to spoil them again or it may be that after these homes, they are led by other men and are made to live in such a way as would bring them under the provisions of this Bill. Such persons may not be suitable companions or may not be suitable people to be put up either with young or old who are now in the Rescue Homes. Therefore, I would ask the Hon. the Minister to make a note of this fact and to see that as soon as this measure is implemented, there should be houses, perhaps taken on rent by Government or

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built by Government or people belonging to the Borstal Association or lent by them, that these girls might be kept there, because I may point out that it is not a small number that come every year. Mr. President, 500 to 600 such cases a year have already been brought to the notice of the judiciary in this Presidency and that comes to the average of two a day. That means on the average about 60 persons a month will be brought into these homes. Therefore, it is a perfectly legitimate claim to ask for a separate house for the women convicted under this Act because Government has not done anything at all till now in this matter. On the average of two a day, these sixty persons cannot be thrust into a Rescue Home where 140 or 150 inmates are already crowding. That, Sir, I think is one of the first problems for the Hon. Minister's immediate attention.

“ Moreover, I do feel that there is another aspect of this. If the Welfare Associations are to be provincialized and amalgamated and are going to be brought under some Director or Directress, I want to ask what the Government's terms will be for appointing such a Director or Directress. Rescue work or vigilance work is so much a matter of special training, that depends much on the degree of influence, personality and experience of the worker employed and a great amount of discrimination should be brought to bear in this kind of work. So, I certainly congratulate the Government in taking this burden on their shoulders, for Sir, I know that Government are going to settle the problem by provincializing these Vigilance Associations. That is what I understand from the papers—I can assert as one reading the papers regularly—and I see from the papers that the Government have decided to provincialize the vigilance homes very shortly. That is the best thing to be done if this clause is implemented, because it is necessary that these vigilance homes should be under the immediate supervision of Government and they should not be worked through the medium of what you call in the money market, brokers or middlemen but by the Minister and the Government themselves and the people who know how to run these homes. May I conclude by asking whether it would be a very fine gesture in implementing this particular clause if Government should provide certain places not only in the City of Madras but also in the districts for this purpose so that the persons who are to be confined for such offences in the future may be kept in their own districts instead of being brought to Madras and housed in these vigilance homes? Suppose some offences are apprehended at Madura, I ask whether all those girls are to be brought all the way from Madura to Madras or to be kept somewhere else or to be left in the mid-air. These are problems that I wish that I had already pointed out to the Hon. the Minister when he first brought forth this measure. He is a lawyer and a social reformer for the women's as well as the men's cause. I would at the same time remind him that at this time that we, the women members in the Assembly and the Council are cent per cent in agreement with his ideas in this measure of social reform,

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and we are as much against the practice of immoral traffic in women as any man is and I only trust that men will help us so sincerely that this type of offence will surely die out.

" Sir, I repeat if this measure is to be implemented immediately, there must be some provision for the girl to be brought to the rescue homes at once; there must be some provision made for the type of girl who chooses to come in and chooses to fashion her life along with the ordinary average womanhood and chooses to be the wife and the mother later on. You may smile, but I say that some of the best wives and mothers are got out of these vigilance home in the Katcheri road, and this Bill will help to make many more happy homes in our Province."

MR. PRESIDENT :—" I did not smile."

* MRS. M. N. CLUBWALA :—" Sir, it gives me very great pleasure to congratulate the Government for having brought about this much needed amendment to the Madras Suppression of Immoral Traffic Act. As one who is closely associated with the working of the Act in the City and Province for the last ten years, I may be credited with the knowledge of the need for such an amendment to the Act. As early as in 1943, I drew the attention of the then Government as to the necessity of passing the present Amendment to the Act but the matter was not taken up seriously then, in view of war-time activities and it was left to the Hon. Mr. Madhava Menon to bring in this amendment and to push through this Bill. By this measure, the popular Government will earn the gratitude of several thousands of women, given to aimless loitering and soliciting men for immoral purposes in public places, causing annoyance to people and also proving a menace to society by being the source of spreading sickness. These women were all along been sent to prison which was neither to their benefit nor to that of society. For, the period of sentence provided for in the Act was so short that the women thus convicted had no time to reform themselves but had only the misfortune of being dubbed as " bad women " ? The fines levied by the Magistrates was so meagre that it had no corrective effect on them. Besides, when once the women convicts under the Act, most of whom are repentful and reformable, went into prison and mixed with all sorts of women offenders, came out of it, they only became habitual and confirmed solicitors instead of being reformed. As a visitor to the Madras Penitentiary, I used to go and meet almost the same set of women again and again, who were convicted under the elusive section 12 of the Act. When questioned, they always said : " What are we to do. We do not know any other trade ; once we come to prison, our lot is sealed. Nobody in society would treat us well. We are denounced as vicious women. So, we have no other go but to continue street solicitation throughout our lives. But, give us an opportunity to live in a decent place and learn something useful and then see if we indulge in these low ways." It was this that made me to think. I am glad that by the amendment, reformable among such women up to thirty years of age would be sent to a

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Vigilance Home hereafter for a period varying from two to five years and that provision would be made there for the teaching of cottage industries and such other arts as would make these women useful members of Society. But, I wish to suggest that the Government may kindly expedite the opening of a Vigilance Home on a workhouse basis immediately, while implementing the amendment of the Act. In the absence of such a Vigilance Home, the usefulness of the measure will be frustrated.

"Secondly, the Government, I hope, will not think of housing these women in the present Stri Sadana Central Rescue and Training Home, run by the Madras Vigilance Association because, I feel that persons who are convicted under this Act should not be mixed with girls in the Rescue Home because such persons convicted under this Act are hardened persons whereas the girls in the Rescue Home are persons who want to reform themselves."

MR. PRESIDENT :—"There is little difference between a Rescue Home and a Vigilance Association."

* MRS. M. N. CLUBWALA :—"There is this difference that girls under the age of 18 and up to 21 are kept in the Rescue Homes whereas after that age, they are cared for by the Vigilance Association. Sir, it will be totally against all principles of psychology to mix these women convicted of crimes under this Act with the rescued girls. It will be detrimental to the reformatory training of the rescued girls. So, these women must have a separate home and Government should build separate buildings for them or they should be housed in a place where they can learn a trade different from a trade which they were previously pursuing. That is why we asked in the Select Committee to reduce the age limit of such women from 35 to 30, and I am glad that Government has accepted it.

"Another request which I would wish to make to the Hon. the Minister is about the formation of the women Police, a subject that is very closely related to the present amendment, because women police will be very useful in this line of work. I am thankful to the Government for having brought this measure. I also request the Hon. Minister to raise the status of the social workers who are engaged in this social work without danger to their prestige and position. I am grateful to the Government for having brought forward this Bill and I once again congratulate the Government for pushing through this measure."

* THE HON. SRI K. MADHAVA MENON :—"I have not much to say in reply. While it is gratifying to hear the statements made by the Hon. the Lady Members, I may assure them that it is not at all the idea of the Government to put the people convicted under the Immoral Traffic Act in the existing Vigilance Homes, but persons who are below the age of 15 may be kept in those homes along with other people. As a matter of fact, the idea of having a separate Vigilance Home for these persons convicted under this Act was in the mind of the Government and

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provision has accordingly been made in this year's budget to the extent of Rs. 40,000. But, since the Act has not been amended up till now, the question of providing a separate vigilance home was not taken up by the Government. Another reason is that it is not easy to find buildings in these days and Government will try to provide a separate house taken on rent for these women at the earliest opportunity, if we are not able to build a separate building for this purpose and to implement the provisions of this Act. I can assure the lady members that as soon as such a building is found out, they will not be kept in the same home as the minor children are kept. I have seen the present home myself in Madras. It is unthinkable to put people into it. Already it is overcrowded and there is hardly room for 60 but more than 160 or 170 women are there huddled together and the women convicted under this Act will not be put along with them.

"So far as the provincialization of the women's association is concerned, Government have already passed orders about the provincialization and details are being worked out. As I said before, the existing institutions belong to private associations. We are already working a scheme even now for the provincialization of not only the Rescue Homes but also the Vigilance Associations. The chief difficulty has been want of proper building for such institutions. We are proceeding actively with the details of provincialization and I can assure hon. Members that as soon as the arrangements are ready, they will be provincialized."

MR. PRESIDENT:—"The question is that the Bill further to amend the Madras Suppression of Immoral Traffic Act, 1930, be taken into consideration."

The motion was put and carried.

Clauses 2 to 5 were then put one by one and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI K. MADHAVA MENON:—"I now move—
'that the Bill be passed into law.'"

MR. PRESIDENT:—"The question is that the Bill further to amend the Madras Suppression of Immoral Traffic Act, 1930, be passed into law."

The motion was put and carried and the Bill was passed into law.

(4) THE MADRAS DEVADASIS (PREVENTION OF DEDICATION) BILL,
1947 (L.A. BILL NO. 21 OF 1947).

THE HON. DR. P. SUBBARAYAN:—"I move, Sir—

'that the Madras Devadasis (Prevention of Dedication) Bill, 1947 (L.A. Bill No. 21 of 1947) as passed by the Legislative Assembly be taken into consideration at once.'

"Sir, this legislation has a long history behind it. It was in the year 1928 that my friend, Dr. Muthulakshmi Reddi, introduced a measure of this kind, but as I said in the other House,

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this Bill has had a rather chequered career, because it has always been usual for something to happen soon after the introduction of this measure. Then came Gandhiji's arrest after the introduction of this Bill and Dr. Muthulakshmi who felt keenly on the way the Government had acted, resigned her membership of the Legislative Council and a difficulty arose and the Bill lapsed. The question was not thought of till the new Congress Ministry came into being in the year 1937, when through the efforts of Dr. Muthulakshmi, who was naturally keen on this measure—and she had the support of the community behind it for passing such a measure—had this Bill introduced by Mrs. Ammannappa Raja and this again unfortunately met with the same fate, because after the Bill had been before the Select Committee, and the Select Committee of which I was the Chairman had reported, came the Second World War and the treatment of India by His Majesty's Government which made the Congress Ministry quit office. So, it had to wait till again it was taken over by the present Government and introduced into the Legislative Assembly but fortunately, it seems to have a better course than the other two measures had. I am here to pay my tribute to Dr. Muthulakshmi Reddi for the incessant efforts she has made and for the persistence with which she has tried to get this measure passed. She has had conferences of these communities and they have welcomed that as a whole.

“ Sir, there is another measure which has been incorporated in this and that is the Bill given notice of by Srimathi Sitamahalakshammamma in the Legislative Assembly with regard to a practice that exists in the Circars, known as Bogum-melam. That has also been introduced into this measure to see that this measure applies not only to the south but also to the Circars and other places where this practice is prevailing. It is a comprehensive measure and I think it will include what Dr. Muthulakshmi Reddi had in mind at the time she introduced her measure. At the same time the Government have taken care to see that the advancement of the art in which the Government are as much interested as the people, is not affected by this measure. So, amateur performance of Bharata Natyam and performances of people of this art are not prevented by this measure.”

MR. PRESIDENT :—“ If I may just interrupt the Hon. Minister, section 3, sub-clause (3) prevents dancing only at a festival or ceremony held in respect of such a deity, idol or object of worship, but Bogum-melam it does not prevent, for instance Bogum-melam in a marriage party.”

THE HON. DR. P. SUBBARAYAN :—“ No, Sir, it is not prevented, but in the copy of the measure, it is said ‘ any ceremony ’

MR. PRESIDENT :—“ It is stated, ceremony connected with a deity.”

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THE HON. DR. P. SUBBARAYAN :—“ No, Sir, in section 3 (2) you will find : ‘ Any custom or usage prevailing in any Hindu community such as Bogum, Kalavanthula, Sani, Nagavasulu, Devadasi and Kurmapulu, that a woman of that community who gives or takes part in any mela (nautch), dancing or music performance in the course of any procession or otherwise is thereby regarded as having . . . ”

MR. PRESIDENT :—“ It refers only to custom.”

THE HON. DR. P. SUBBARAYAN :—“ You are mixing up sub-clause (2) which only talks of dancing before Hindu deities.”

MR. PRESIDENT :—“ The Hon. Minister will please listen to me. Section 3, sub-clause (3), is the clause which prohibits dancing and it only refers to dancing in any procession of a Hindu deity, idol or object of worship installed in any temple or institution or at any festival or ceremony held in respect of such a deity, idol or object of worship. But, it does not include marriage parties. Is that the idea? ”

THE HON. DR. P. SUBBARAYAN :—“ That is right, Sir. We felt that if it is drawn wide it might affect performances by amateurs and even so, of devadasis, which is allowed in the south. There are exponents of the art of Bharata Natyam which we do not want to prevent because of advancement of culture and that is why the clause had to be drafted in rather a careful manner as not to prevent these.”

MR. PRESIDENT :—“ Bogum-melam is a term which is exclusively used in connexion with marriages and festivals.”

THE HON. DR. P. SUBBARAYAN :—“ Yes, Sir, I understand it. I move that the Bill be taken into consideration at once.”

MR. PRESIDENT :—“ Did I disturb the trend of the Hon. Minister's speech? ”

THE HON. DR. P. SUBBARAYAN :—“ It is rather an unusual experience for the Speaker or President to intervene in the debate.”

MR. PRESIDENT :—“ You must get accustomed to it.”

“ The motion before the House is that the Madras Devadasis (Prevention of Dedication) Bill, 1947, as passed by the Assembly (Bill No. 21 of 1947), be taken into consideration at once.”

DR. V. K. JOHN :—“ Sir, I only ask for information whether all Hindu communities are affected because section 3 (2) says : ‘ Any custom or usage prevailing in any Hindu community such as the Bogum, Kalavanthula, Sani, Nagavasulu, Devadasi and Kurmapulu, etc.,’ and not any other Hindu community? ”

THE HON. DR. P. SUBBARAYAN :—“ No, Sir, it is general. These are only examples of the communities which follow this kind of Bogum-melam and there are other communities also which are not mentioned here.”

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DR. V. K. JOHN :—“ Mr. President, Sir, I must congratulate the Government in introducing this social reform Bill, Sir, in any country a usage which was once prevailing and which later offended the moral consciousness of a community would have been ruled by a court of law as illegal. Sir, the Common Law of England is based on the decisions of Judges who are in intimate touch with the notions and ideas of people. Judges who gave decisions in accordance with the growing consciousness of the people. European Judges deciding questions of Hindu Law often held that customs which were considered by the community to be out-of-date are legal. I am quite sure if we had Judges who are in intimate touch with the people there would have been no need to introduce a Bill like this, because the Judges would have ruled this Devadasi system to be illegal. Sir, law is the idea of right or wrong in a community. The Judge ought to take note of it but our Judges have not taken note of it and so this Bill has been introduced. I congratulate the Government on having introduced this Bill because if the matter went to court, it might hold that the ancient custom is still legal. I am assured that the application of clause 3 (2) is not confined to any one community but to all the communities and if that is the intention of the Government, it is not very clear and it could have been made more clear. The hon. Mover has, however, assured me that the word ‘ usage ’ is not confined to the communities enumerated and that the enumeration is not exclusive but only illustrative.

“ Sir, another point I want to ask the Hon. Minister is, why in providing for penalty in clause 4, persons who are below the age of 16 are exempted. Clause 3 makes a particular custom of an act in pursuance of that custom illegal. Then we provide a sanction clause, that is, a clause which gives sanction for the provision in clause 3 which declares such a custom as illegal. Instead of the word ‘ penalty ’ he could have used the word ‘ punishment,’ but it does not however matter much. But then in providing for penalty or punishment, you say if he contravenes sections 3 and 4, the punishment is only for persons who are over 16 years of age. There may be some very good reason for that and of course Dr. Subbarayan will explain it at the end. I congratulate the Government once again on introducing this very good, perhaps long overdue, piece of social legislation.”

* MRS. M. N. CLUBWALA :—“ Mr. President, the popular Government has again merited the gratitude of hundreds of women, who though not due to any fault of their own, have been smarting under the yoke of worst humiliation and social ignominy. All women with a heart to feel have thought that the insult shown to the socially oppressed women has been one that affected all of them. The credit of having awakened the conscience of women, nay men too, to the existence of the evil of a separate class of women whose honour and character were exploited by the interested men, in the name of religion, goes to that great woman social worker and reformer, Dr. Muthulakshmi Reddi. We may

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re-call that years ago, Dr. Reddi, through her indefatigable efforts, bringing about a similar measure enjoining the temples through the Religious Endowments Boards to discourage dedication of girls, but as the measure was not compulsory and as it did not provide any penalty for offenders, it could not go a long way in fulfilling Dr. Reddi's dream and by passing this Act we have crowned her tireless efforts in the sphere of reclamation of women. We are also very proud that our popular Ministry has taken the interest of women's cause to heart and therefore I think they have brought in this measure; we do feel very pleased about this because our leader's wishes have at last been fulfilled. I do hope that certain clauses which are not there, especially in connexion with nautches in Andhra districts, will later on be introduced. With these words I offer my thanks to the Government for bringing forward this most humanitarian measure."

SRI B. BHIMA RAO :—" Sir, I only want to say a few words in this connexion. Let me point out an important omission . . . "

THE HON. DR. P. SUBBARAYAN :—" Sir, I think my thoughts were rather disturbed by you, because I am not accustomed to interruptions by the Speaker or the President which is not the usual thing in any deliberative assembly, but as you have said I must learn new lessons, I am prepared to learn them, though I respectfully point out it is rather unusual.

" Sir, you will see that in clause 4 (2) "

MR. PRESIDENT :—" I do not want to disturb you now ; I will do it later."

THE HON. DR. P. SUBBARAYAN :—" In section 4, you will find that punishment is provided for what happens under section 3 (2). Therefore the sub-clause talks of a woman who takes part in any dancing or music performance in the course of any procession or otherwise is thereby regarded as having adopted a life of prostitution and so anybody who takes part in any procession is punished not under section 4 (1) which refers to section 3 (2), but under section 4 (2) which refers to section 3, sub-section (3). Section 4 (2) read thus :

' Any person having attained the age of sixteen years who dances in contravention of the provisions of section 3, sub-section (3), or who abets dancing in contravention of the said provisions, shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.' "

MR. PRESIDENT :—" That does not meet my point."

THE HON. DR. P. SUBBARAYAN :—" It does. Even marriage processions will be part of any procession according to this section."

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MR. PRESIDENT :—" Section 4 says, ' Any person having attained the age of sixteen years, takes part in or abets the performance of any ceremony, etc. . . . '

THE HON. DR. P. SUBBARAYAN :—" No, Sir. There are two sub-sections to clause 4. Clause 4 refers to sub-section (2) as well as sub-section (3). The punishment provided for in sub-section (2) is for any contravention of what is considered illegal in section 3. Therefore, any dance in a procession, even a marriage procession will be considered coming within the ambit of law and will be punished under clause 4, sub-section (1). Sub-section (3) to clause 3 says, ' Dancing by a woman, with or without *kumbhaharathy*, in the precincts of any temple or other religious institution, or in any procession of a Hindu deity, idol or object of worship . . . ' and sub-section (2) talks of ' any procession or otherwise.' "

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MR. PRESIDENT :—" If the Hon. Minister will excuse me I do not want to take part in the discussion, but I may point out as a piece of information that there is no mention of procession in clause 4 (1)."

THE HON. DR. P. SUBBARAYAN :—" Clause 4 (1) refers back as I explained to clause 3 (2). ' Any person having attained the age of sixteen years who after the commencement of this Act performs, permits, takes part in, or abets the performance of any ceremony or act for dedicating a woman as a devadasi or any ceremony or, act of the nature referred to in section 3, sub-section (2), shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.' "

MR. PRESIDENT :—" My object in interfering is only to understand in common with other members what we are doing. I cannot be idle; I take no pleasure in interfering in the measures that are being discussed. I really do not understand if it is the object to prevent processions or dances in marriages. I am of the opinion that they do not come under the provisions at all because clause 3 (2) refers only to the custom and not to the act. It only says that such a custom is wrong. The operative section is 3 (3) and not 3 (2)."

THE HON. DR. P. SUBBARAYAN :—" Clause 3 (2) is also made an offence."

MR. PRESIDENT :—" By that custom if anybody takes part in a dance then she is deemed to have dedicated herself to a life of prostitution. If taking part in any procession is such a custom then she is punished under clause 4 (1). If she takes part in any dance she is punishable under clause 4 (2). That is the difference. Dancing in a marriage is not mentioned."

SRI B. BHIMA RAO :—" You are quite correct in your interpretation, Sir, though it is unusual for a President to take part in the proceedings. The Hon. Minister is agreeable to make the provisions of this Bill apply to marriage processions or marriage

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occasions. That is what I see from the reply that he has given. He refers to sub-section (2) of section 3. The word 'procession' is there. There is a procession for the purpose of dedicating the girl to a life of prostitution. We have seen such a procession going in front of our houses and feeling ashamed at this practice. Sub-section 3 (2) prohibits such acts. Sub-section (3) only limits the application to dances in a religious institution or in the course of a procession of a Hindu idol. It does not include, Sir, marriage processions or marriage occasions when such dances are arranged by those responsible for the performance of marriages. I submit that my friend has limited the Bill only to processions for dedication of women as devadasis. If that is so, sub-section (3) may not have to be in there. I have known of dances on the occasion of marriage or marriage processions. They are equally abhorrent to public morals and they should be put an end to and if my friend is agreeable to such a course, he should also include that in sub-section (3) 'or on occasions of marriage.' The Legislative Assembly is meeting on the 9th and you can include that expression and see that it is passed into law again. We are glad that you have pointed out this omission, Sir."

* THE HON. SRI K. MADHAVA MENON :—" With due deference to Mr. Bhima Rao, clause 3, sub-section (2) declares certain things as void and unlawful and section 4, sub-section (1), provides the punishment for doing any unlawful acts which are declared. The question which you have raised and Mr. Bhima Rao has supported that marriage processions are not included there, I beg to submit, Sir, is not correct. During dancing or music performance or any procession; if there is a custom of having a particular set of dances, this comes, Sir. It says: 'Any custom or usage prevailing in any Hindu community such as the Bogum, Kalavanthula, Sani, Nagavasulu, Devadasi and Kurmapulu, that a woman of that community who gives or takes part in any melam (nautch), dancing or music performance in the course of any procession or otherwise is thereby regarded as having adopted a life of prostitution and becomes incapable of entering into a valid marriage, and the performance of any ceremony or act in accordance with any such custom or usage, whether before or after the commencement of this Act and whether, the woman concerned has consented to such performance or not, are hereby declared unlawful and void.' If dancing in a marriage procession is such a custom, then that is declared void by this."

MR. PRESIDENT :—" I will give you my difficulty. Any custom by which a woman who gives or takes part in any melam, dance or music performance in the course of any procession or otherwise is thereby regarded as having adopted a life of prostitution is declared unlawful. That is what sub-section (2) says."

* THE HON. SRI K. MADHAVA MENON :—" No, Sir."

MR. PRESIDENT :—" The emphasis is on the custom. In the ordinary marriage melam, there is no such custom there."

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Nobody can say that, because she danced in the marriage, she has adopted a life of prostitution. Clause 3 (2) says that any custom by which she takes part in any dance or ceremony means that she has adopted a life of prostitution. Such a custom is wrong and the act itself is not prohibited."

* THE HON. SRI K. MADHAVA MENON :—" If it is the custom to dance before marriage processions, then it comes within this."

SRI M. NARAYANA MENON :—" Sir, sub-section (2) of clause 3 says that there is a custom in some communities and that custom is this. If a woman dances or does a music performance before any procession, she is regarded under that custom as having adopted a life of prostitution and becomes ineligible for marriage. The section says that such a custom is unlawful and void. There is also another part of that custom that is to perform a ceremony whereby she may be regarded to have dedicated herself to a life of prostitution, and under the section that ceremony also is unlawful. Now this section means that, dancing before a marriage procession is certainly not an offence, but it is the custom that is unlawful renders the women dancing before a marriage procession incapable of marrying. Dancing before a marriage procession, it is not prevented by this Act at all. It is the custom that is unlawful and not dancing or singing before a marriage procession which are lawful. It is just contrary to what the mover has stated."

THE HON. DR. P. SUBBARAYAN :—" I have considered the objections that have been raised. The section was carefully drafted due to the fact that there are professional dancers whose professional act we did not want to take away. We only wanted to prevent their leading a life of prostitution. Now take an artist who gives Bharatanatyam performance. She may be very good, her art and culture may be appreciated. So it is not possible to put a general clause as you want."

MR. PRESIDENT :—" I do not want you to put a general clause. I only wanted to know your intention."

THE HON. DR. P. SUBBARAYAN :—" I will explain why it is not possible. This legislation should not cut at the root of art and culture. Such things have been appreciated in Tamilnad and I was told in the Andhra Desa also. This culture has come down to us from generations past, from the Pandya, Chola, Chera and Pallava Kings. These things should not be killed in our jealousy for social reform."

MR. PRESIDENT :—" I do understand that point, but the fact remains that certain people do follow that procession and dance in marriage processions and it is not prohibited."

THE HON. DR. P. SUBBARAYAN :—" Does it mean that I can prevent prostitution? But those people may have no other profession by which they can earn a living. If that is what is really wanted, personally I would be averse to passing a legislation of that kind."

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MR. PRESIDENT :—" The Minister is confusing."

* SRI R. SURYANARAYANA RAO :—" The Home Member should reconsider the position in the light of this discussion. The Assembly is meeting again. We, laymen, on this side think that there is something in what you say, especially with regard to section 3 (2)."

4 p.m. MR. PRESIDENT :—" After all it is Government's business. I just wanted to understand the scope and extent of the Bill. I have to inform hon. Members that others came to me for interpretation of the Bill passed, what its implications are and so forth as if I am here to explain all that. That is just why I wanted to know what it was."

DR. V. K. JOHN :—" Sufficient attention has not been paid to the words referred to in sub-section (2) of section 3, and the intention of the draftsman."

MR. PRESIDENT :—" The wording used is 'act in accordance with any custom or usage'; these refer to ceremonies connected with dedication and there are so many ceremonies preliminary to it and the intention is that if any person goes, participates in or performs such ceremonies, that is punishable. If that is the intention of Government, the wording is perfectly all right. And my question was whether that was the intention of Government."

The motion was put and carried and the Bill was taken up for consideration.

Clauses 2 and 3 were put one by one and carried.

DR. V. K. JOHN :—" I wish to draw attention to one fact. Now that Dr. Subbarayan is piloting the Bill, I wanted to bring it to the notice of Government. Under section 109 of the Indian Penal Code, an abetment is punishable just like the main offences. And under sections 40 to 42 of the Indian Penal Code, any local or special law is brought under section 109. This is a special law and a local law is one which is in force in one part of British India and now one part of the Indian Union. Now this is a local law as well as a special law and sections 40 to 43 of the Indian Penal Code and section 109 of that Code apply and whatever punishment is provided for a major offence also applies to abetment."

MR. PRESIDENT :—" What is the harm if there is mention of it here in this enactment? "

DR. V. K. JOHN :—" I only wanted to bring to the notice of Government that it has been enacted in the various enactments that have come up before this House. There is no harm in it but it does not seem necessary. It seems to be a case of superabundance of caution but it is not necessary."

THE HON. DR. P. SUBBARAYAN :—" Mr. President, my learned friend is as aware of the General Clauses Act, the Evidence Act and the Penal Code which of course bring in special laws.

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But legislators usually are very cautious. Out of abundant caution this is done and my hon. Friend will also find that even though the General Clauses Act may provide for such things, even in Parliamentary legislation, they do take care to provide for abetment as well in the clauses of the Bill. My hon. Friend may be correct in his interpretation but there is no harm in being cautious and I do not see there is any harm."

DR. V. K. JOHN :—" There is no harm but only there is no necessity."

Clauses 4, 5 and 1 were put one by one and carried.

The preamble was put and carried.

THE HON. DR. P. SUBBARAYAN :—" Sir, I now move—
'that the Bill be passed into law.'"

" I quite realize the difficulties which you have raised and which other hon. Members have pointed out. Mr. Suryanarayana Rao as an ardent social reformer seems to have been very keen that I should take this measure back to the lower House and bring it back again with the amendment that you have suggested. In spite of being a social reformer, I belong to the cautious variety and therefore, I do not want to do anything which might detract from what I said in connexion with the point you raised. This Bill will of course become law and when it is applied and when there are decisions of the court and we find that it is not working in the manner that hon. Members desire, that will be time to think of amendments. To make it as wide as hon. Members want, I am afraid, will be taking a rather dangerous path which might lead us into positions which the Legislature and the members did not really think or conceive of now.

" There is one more point that I have to answer. You should not punish any person under 16 because they have no right of discretion and might be misled by others and they will be punished. To punish people under 16 will be against all ideas of jurisprudence which my hon. Friend Dr. John understands as well as I."

The motion was carried and the Bill was passed into law.

(5) THE MADRAS MARUMAKKATTAYAM (AMENDMENT) BILL,
1947 (L.A. BILL NO. 39 OF 1947).

* THE HON. SRI K. MADHAVA MENON :—" Mr. President,
I move—

'that the Madras Marumakkattayam (Amendment) Bill,
1947 (L.A. Bill No. 39 of 1947) as passed by the Legis-
lative Assembly be taken into consideration at once.'*"

" Many hon. Members of this House may not exactly know what this is for; but this is a matter which vitally affects the people of Malabar who follow the Marumakkattayam law. Hon. Members may be aware that the custom among the people then prevailing

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was codified in the Madras Marumakkattayam Act, 1932 (Act XXII of 1933) and section 4 of the Act says :

** The conjugal union of a marumakkattayi female with—*

(i) a male belonging to the same community as such female, or

(ii) a male, not belonging to such community and whether a marumakkattayi or not,

shall be deemed for all purposes to be a legal marriage if—

the parties are not related to each other in such degree of consanguinity or affinity that conjugal union between them is prohibited—

and the union is so solemnized in accordance with such ceremonies on or after the date on which this Act comes into force . . . or was registered as a marriage under the Malabar Marriage Act, 1896, before the date on which this Act comes into force and is subsisting on such date.'

“ The words ‘ subsisting on such date ’ was interpreted by the High Court in 1946 to mean that if on the date of the passing of the Act either the husband or the wife had died that marriage was not subsisting on that date. There being no valid marriage on that date, the children of each of the marriage in which one of the parties had died did not inherit any property. Not only that, they said that the children could not be considered to be even legitimate children so that many of us have been practically bastardized, though it must never have been the intention of the sponsors of the Bill; Sir M. Krishnan Nayar would never have meant such a thing. It was a mistake and if I may say so, the position is really inconsistent with section 50 of the Act which says that ‘ nothing contained in this Act shall be deemed to confer any rights on the parties to or the issue of any marriage which is dissolved before this Act comes into force or be deemed to affect any rule of Marumakkattayam law, custom or usage except to the extent expressly laid down in this Act ’, so that that interpretation was not at all warranted by the tenor of the legislation. After this decision, there was considerable agitation in Malabar and it has been brought to the notice of Government that there is widespread feeling that the decision runs counter to the opinion held by the persons following the Marumakkattayam law. It has, therefore, been suggested that the Act should be suitably amended except as regards decrees and sales in court auction which had become final and transfers and partitions before the amending Act comes into force. The Collector of Malabar has reported that the effect of the decision runs counter to Malabar opinion and sentiment and the Collector of South Kanara has reported that the decision has caused a stir among the followers of the Marumakkattayam law and that there is a widespread feeling that the Act should be amended. Both of them recommend an amendment of the Act on the lines indicated in the Bill; the Board of Revenue

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and the High Court have agreed with the principles underlying the Bill and there is no objection to the amendment. I have taken care to see that the amendment should not affect contracts or partitions or transactions which have become final; clause 6 of the Bill provides to this effect. The object is that there should not be much unsettlement and the amendment rectified a mistake that has been done by the judgment of the High Court."

SRI B. BHIMA RAO :—" Mr. President, I am glad that this Bill has been brought before this House at least within two years after the Madras High Court passed their judgment. I believe it is Justice Horwill who gave this decision pointing out the lacuna in this Act. I am surprised that it should have taken two years for the Ministry to bring forward this Bill. But better late than never and I really congratulate the Government on this piece of legislation because several people are affected by the judgment and there is the case of the children who have so to say to be legitimized by this enactment. In certain cases, the Ministry recognize the need for giving retrospective effect to legislation and this is eminently a case like that. It makes me wonder why Dr. Subbarayan did not bring forward this Bill but Mr. Madhaya Menon brought this forward."

THE HON. DR. P. SUBBARAYAN :—" For the simple reason that I do not profess to know the Marumakkattayam law as well as my hon. Friend Mr. Bhima Rao does. I think my Hon. Colleague would do better in a job like that than I."

SRI B. BHIMA RAO :—" I have to deal with some cases under the Marumakkattayam Act XXII of 1933 in certain succession cases and that is why I have gone through the Act and I know some of the provisions of the Act."

SRI M. NARAYANA MENON :—" Sir, this is a welcome legislation inasmuch as it is an absolute necessity for the people following Marumakkattayam law. The Act of 1932 was intended to remove certain difficulties in the system of inheritance among the Marumakkattayam people. But the Act was unfortunately interpreted by the High Court against the intention with which it was enacted and against the social consciousness of the people. It has become therefore absolutely necessary to amend the Act in order to make the intention of the Legislature clear. So we congratulate the mover of this Bill in bringing forward this measure. Previous to the 1932 Act, even for about fifty years the Marumakkattayam people were swinging in favour of Marumakkattayam, i.e., inheritance by children rather than by sister's children. It was on the basis of this social feeling that the measure was introduced and passed but the High Court gave another interpretation which was reactionary. Though the wording of section 50 of the Act is clear as to the intention of the Legislature, the High Court held that in a marriage between two persons governed by that Act if one of them had died before the commencement of the Act the marriage would not be a legal marriage and the children of the marriage would not consequently be entitled to the rights of

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succession, etc., conferred on them by the Act. So this Bill is absolutely necessary. One thing more the Hon. Minister has done; and that is for certain things which have been done in pursuance of that decision of the High Court are not to be unsettled by giving this amending Bill a retrospective effect. Those things are dealt with in clause 6 of the Bill, which says 'Any decree or order of a competent Court which became final before the commencement of this Act, any sale which was held in execution of a decree or an order of a competent Court and which became final before the commencement of this Act and any transfer or partition of property effected before the commencement of this Act are saved and unaffected by this Act. I welcome this measure and all Marumakkattayam people also welcome it.'

The motion was put and carried.

Clauses 2 to 6 were put one by one and carried.

Clause 1 and the Preamble were put and carried.

THE HON. DR. P. SUBBARAYAN :—“ Sir, I move, as I am in duty bound as Law Member of this Government, though it is purely conventional, the Legislative Council thinks (though the Bill has been moved by the Hon. Mr. K. Madhava Menon) I should move that the Bill be passed into law. So I do it as a formal duty. I move that the Madras Marumakkattayam (Amendment) Bill, 1947 (L.A. Bill No. 39 of 1947) as passed by the Legislative Assembly be passed into law.”

The motion was put and carried.

(6) THE MADRAS CITY POLICE (AMENDMENT) BILL, 1947
(L.A. BILL NO. 40 OF 1947).

THE HON. DR. P. SUBBARAYAN :—“ Sir, I move—

‘ that the Madras City Police (Amendment) Bill, 1947 (L.A. Bill No. 40 of 1947) as passed by the Legislative Assembly be taken into consideration at once.’

“ Sir, this is a very simple measure that has been brought forward; because the Corporation of Madras by a resolution brought to the notice of Government that heavy loads are being drawn by human beings and this sort of practice should be put an end to. Government felt as this practice has been long in vogue they should only restrict the load and not entirely prevent the practice. So we have brought forward this measure and it provides a certain amount of weight that could be dragged; children under a certain age are not to be allowed to drag the load but only adults should be allowed to do so. The point raised by Dr. V. K. John that women should be prevented altogether from dragging loads is a correct one, but Government wish now to see how this amendment works out in practice. Sir, I move the Bill be taken into consideration at once.”

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The motion was put and carried.

Clause 2 was put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

THE HON. DR. P. SUBBARAYAN :—“ Sir, I move—

‘ that the Madras City Police (Amendment) Bill, 1947 (L.A. Bill No. 40 of 1947) as passed by the Legislative Assembly be passed into law’.”

The motion was put and carried.

(7) THE MADRAS HINDU WOMEN'S RIGHTS TO PROPERTY (EXTENSION TO AGRICULTURAL LAND) BILL, 1947 (L.A. BILL NO. 4 OF 1947).

THE HON. DR. P. SUBBARAYAN :—“ Sir, I move—

‘ that the Madras Hindu Women's Rights to Property (Extension to Agricultural Land) Bill, 1947 (L.A. Bill No. 4 of 1947) as passed by the Legislative Assembly be taken into consideration at once.’

“ Sir, this measure has become necessary because Dr. Deshmukh's Bill, which was passed as far back as 1937, was declared to be *ultra vires* of the Central Legislative Assembly so far as agricultural land was concerned. Therefore during the time the Advisers were in power, it was put to them, but they felt that it ought to be passed by the popular Legislature than be undertaken by Governor's legislation, and hence this measure. There has been some controversy in the Lower House which I do not want to burk here. But I would like to point out that ten years has elapsed since the passing of Deshmukh's Bill and transactions have taken place under it. But as I said before, though I am a social reformer, in matters of legislation I am inclined to be a conservative, and I feel that you should not rip open things that have happened because of decisions of courts. We should not disturb property which have changed hands because of the decision of the Federal Court. But at the same time there is a certain amount of retrospective effect given. For, transactions which took place after the Bill was published in 1946 have been declared invalid, because then, it may be said that people have had sufficient notice and they knew legislation of this kind would come in. So the select committee adopted an amendment to that effect and it was moved in the Lower House and it has been accepted. Therefore, Sir, I move the Bill be taken into consideration at once. But before I resume my seat I wish to say one thing more. How careful the Government of India have been in the passage of this measure I shall show by reading one passage to hon. Members of this House :

‘ The rule of law is that unless retrospective effect is given in the body of the Bill itself there is no question of retrospective effect.’

“ Evidently the Government of India, during the discussion of Dr. Deshmukh's Bill, felt that the wording of the Bill might have

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that effect. So in section 4 which was moved by Sir Nripendranath Sircar it was provided that 'nothing in this Act shall apply to the property of any Hindu dying intestate before the commencement of this Act'. Thus not only did they not provide for retrospective effect but they made it crystal clear that there is no question of retrospective effect by introducing section 4. Sir, I move the Bill be now taken into consideration."

SRI B. BHIMA RAO :—" Mr. President, Sir, I want to say a few words, not by way of moving amendments to the sections of the Bill, but by way of observing that retrospective effect as from 18th April 1937 should be given effect to, to the provisions of the Bill. I want to say certain facts, and of course in doing so, I do not want to invite the disciplinary action of the High Command. But I want to say a few words because my hon. Friend referred to a certain section in the main Act showing that it shall not have retrospective effect. As we all know, Sir, the Federal Court decision was given in 1941. Immediately after that, eight provinces passed in the years 1942-43 amendment Acts making the Act applicable to agricultural land by making an additional provision in every one of those eight amendment Acts—for all the eight provinces out of the eleven provinces, i.e., except Madras, North-West Frontier and another province—passed legislation to the effect, that this amendment Act shall include and shall be deemed to have always included agricultural land. In every one of the amendment Acts passed by the various provincial Legislatures such a provision was included because from the years 1937 to 1941, in which year the Federal Court gave its decision—during these four years members of Hindu families have acted on the assumption that the law applied to agricultural land also. I have come across various instances where parties have acted by giving a due share to Hindu women who were unfortunately widowed after 18th April 1937. In cases I have conducted and we have come across, if retrospective effect is not given—and here even though Government may not be convinced, yet I wish to say this—though the object of the Bill is to prevent litigation, there will be more litigation by not giving retrospective effect, for there have been numerous transactions effected on the assumption that agricultural property also was included within the purview of this Act. Now after these various amendment Acts of the various provinces I moved the Adviser's Government in Madras to pass an amending measure to the same effect in this province also, Sir, I did not get any reply, for the Adviser had not the courtesy to send a reply to my letter.

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p.m. " Immediately after the Congress Ministry took up office on the 30th April 1946 I sent in a Bill to your office as well as to the then Minister Mr. K. Bhashyam, as well as to the party office, where we are expected to send it. I do not claim any originality for it. It was in accordance with the United Provinces amendment measure passed in the year 1942 wherein retrospective effect has

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been given. From your office I got an endorsement to the effect that the Government was introducing such a measure and I may take back my measure. I did not proceed with it. This was in July 1946, about 18 months ago. Not July 1947. My friend concedes that he can give retrospective effect to a certain extent to benefit all such unfortunate women who have got widowed after November 1946. If retrospective effect is not given, as I have already said, all those transaction which took place from 1937 to 1941 would be re-opened and people will be very anxious to get back land that they have given to the poor Hindu widows.

"In a place like Bellary and also in other districts they take the law into their own hands. They enter upon the fields and take away all the produce leaving the poor widow to resort to a court of law. They will say that no retrospective effect is to be given and that the widow should be satisfied with having been in possession of the lands for 12 years. They would thus try to take back the land. As a lawyer I know what the result will be. Already knowing that no retrospective effect is to be given to the measure they are resorting to this step of entering upon the lands after the Federal Court decision was given in 1941. I only wish, Sir, that my learned friend will listen to my arguments because I am still a lawyer in harness."

THE HON. DR. P. SUBBARAYAN :—"I am listening to the hon. Member, Sir."

SRI B. BHIMA RAO :—"Sir, I am a practising lawyer and I know the disadvantages of the parties affected by the legislation. As soon as the Federal Court decision was passed people began to take mortgages of landed property in lieu of a debt. The question arose before the Madras High Court. The Madras High Court decided that the mortgages on landed property came under the category of agricultural property to which this Act is not applicable and hence the poor widows were deprived of their shares in the debts. In certain rich families such debts are extensive than the debts covered by promissory notes and other ordinary debts. Generally they took mortgages. Now-a-days after the passing of the Agricultural Relief Act as well as this legislation and after the decision of the Federal Court has been given they resort to the expedient of taking regular sales giving them an oral promise that they will re-convey the property when the debt is paid. This is the second injustice perpetrated in the case of these poor widows.

"So, Sir, I do not want to move any amendment. If in the face of these facts my hon. Friend is convinced that there is a case for giving retrospective effect I do not see any other case more fit. We had occasion the other day of giving retrospective effect to alienations of lands in the zamindaris because in 1939 the Prakasam's Committee thought that a legislation should be introduced and every one would have been cognizant of the fact that such legislation would be introduced. Any one who has taken a transfer of

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property after 1939 would be deprived of it and such transactions would be declared null and void. That was the argument that was advanced. But now in this case after the Federal Court decision was given and when 8 provinces in the Indian Union have passed such legislation giving retrospective effect as from 1937, is there not a case for giving retrospective effect to this measure also? I submit, Sir, that it is a fit case. We have had just now, about a quarter of an hour ago, retrospective effect being given to a measure, namely, the Marumakkattayam Amendment Bill which is really a well-deserving case. So, Sir, this Bill also which is in the interests of the poor widows is a fit case in which retrospective effect should be given. If the Hon. Minister's object was to prevent litigation, I think, Sir, by this Bill we will be opening more doors for litigation by not giving retrospective effect with regard to transaction from 1937 to 1941. There will be more litigation on account of this than by giving retrospective effect to this measure. I appeal, to my hon. Friend to consider, especially when the Legislature is sitting again, whether he could not incorporate a small clause to that effect as in the eight amendment Acts excluding all transactions which have taken place till now either for consideration or for no consideration. With these few words I close my speech."

SRI M. NARAYANA MENON :—" I support the Bill, Sir, in all its aspects. The chief point urged by the previous speaker against the Bill is this, that the Bill does not give retrospective effect from 1937 when the Act was passed in the Central Legislature. The Central Legislature has taken the view that though from the days of Manu the widows remained poor, neglected and so they were not to be given any benefit by giving the Act any retrospective effect for any prior period, say 10 years previous to it. Unfortunately, legislation regarding agricultural lands was not within the jurisdiction of the Central Government, and the Federal Court in 1941 declared the Act invalid so far as agricultural lands were concerned. Now after 1941 the people thought that they had the decision of the Federal Court and they could act as if the Act did not apply to agricultural land from 1937. There were alienations, partitions and mortgages and so many things relating to such lands over which the widow had no right. If retrospective effect is given to all these transactions there will be a number of cases which will feed the lawyers and the number of litigations will be considerable. My hon. Friend's contention seems to be that before 1941 there were partitions, mortgages and so many things in which the widows were given a right over the property under the Act of the Central Legislature and that this Act would unsettle those things if retrospective effect is not given to it. Certainly that is not a correct position. If by consent widows rights were recognized under registered partition deeds and shares allotted to them the parties to the transaction cannot come down to a court and claim in law that all these things must be unsettled. My submission is that if retrospective effect is given to the Act from 1937, that is the date on which the Act was passed

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by the Central Legislature, there will be a multiplicity of litigation and people will be ruined, that is those people who have advanced money or purchased property in the belief that the widows had no right to the agricultural lands, I am glad, Sir, that the mover of this Bill has really considered every aspect and refrained from giving retrospective effect to this Bill. I support this Bill in all its aspects."

* MRS. HENSMAN :—" Mr. President, Sir, this afternoon might be taken as the landmark in the history of this Council. We have passed Bill after Bill up to now with some comments, two to help women and one to help gentlemen in their hereditary assets and this is the third Bill that is going to help women who have up to now suffered from a very very grave disaster, not because they have had an honourable marriage and a home and after they have lost their guardian and protector. Up to the time when this Bill was introduced these widows have lost a very great portion of their living and all the substance that would have been theirs had their husbands lived. I believe, in law there is such a thing as acts of God. Sir, the women suffer because an act of God has chosen to remove her helpmate and very rightly the Hon. Minister has brought forward this Bill immediately to rectify that. I say this because, I do see a very great deal of point in what the hon. Speaker, who spoke before me in this House said, that retrospective effect from 1937 would really settle many of these widows in a right position. He has referred to provinces other than our own that have worked the retrospective effect on paper. But I have been in touch with some of the women's organizations in some of these provinces and they find it mighty hard to implement that retrospective effect in material goods, possessions and land. Because this Bill can be made much better by going back and giving retrospective effect from 1937 is no reason not to congratulate the Government today on taking this great step forward and giving retrospective effect from November 1st of 1946. There is a certain amount of fairness in that because every man and every woman who is seeing the papers and who is in touch with public life knew that this kind of measure was going to be introduced in the near future. Mr. President, Sir, I think that if today the Government could immediately implement the clauses of this Bill from April 1937 there will be immeasurable good done to them, but there is no reason why we should not rejoice that they should not give effect to from November 1946. Practical circumstances at the moment perhaps prohibit them from doing the former but the latter is well within their power.

" In this connexion I would also like to say that in future this is going to make a very great difference to marriages. I think that the dowry system might well be affected by the clauses now introduced because the parents when marrying their daughters to gentlemen of position, influence and a certain amount of property

[Mrs. Hensman] [5th December 1947]

can be sure that the girl is going to be well cared for and that in turn their own sons will look after the daughters of other gentlemen well. Dowry will receive its death-blow in future. I understand that the origin of the dowry system must have been in providing for the future of the daughter in case of such disaster happening. I also feel that in the future we are going to have a great deal of power and happiness in a country that ensures that when a woman is left she is not going to be left a destitute. This will also help to implement some of the other Bills that we have passed today and meet the economic needs of women."

* MRS. M. N. CLUBWALA :—" Mr. President, I should like to say a few words on this question concerning the rights of women though I am not a Hindu widow myself. (Laughter.) Being a Parsi widow, we do not have to suffer with these drawbacks."

MR. PRESIDENT :—" This is a ladies' day."

4-45
p.m.

* MRS. M. N. CLUBWALA :—" I should like to give my support to the cause of my unfortunate sisters, the Hindu widows with whom this Bill deals. I am sorry, Sir, the Government have not given retrospective effect to this Bill. There are thousands of poor women who have been hoping to have some benefit if retrospective effect is given to the Bill. Sir, in the other House one of the hon. Members who has been always opposed to giving retrospective effect to legislation has pleaded for giving retrospective effect to this Bill. Still, I am sorry, Sir, that the Government have not agreed to this course, although they have in another Bill proposed giving retrospective effect since 1802. I think the Government would do well to give retrospective effect to this Bill also. With these words, I support the Bill."

THE HON. DR. P. SUBBARAYAN :—" Sir, I listened with great attention to the hon. Member Mr. Bhima Rao's speech, though he did not think so. I know he is still practising at the Bar and is having active practice as he called it. But in spite of the argument he advanced, I am not convinced of giving retrospective effect to this measure.

" The hon. Member talks of suits filed between 1937 and 1941. I ask him, Sir : What about suits filed between 1941 and 1947? The number of suits filed during six years would certainly be more than the number of suits filed during four years. You have to consider the pros and cons in giving retrospective effect to legislation. The Government as a whole felt that in giving retrospective effect there were more contrary matters than those in favour. That was the reason why we decided not to give retrospective effect.

" Of course, I can understand women pleading for their sex. I am one of those who believe in sex equality. At the same time I think they will agree with me that it is very hard to upset things that have happened during the course of ten years in view of the

5th December 1947] [Dr. P. Subbarayan]

decisions of the courts. My hon. Friend, Mr. Narayana Menon, has really explained the position of the Government as well as it can be. I feel, Sir, that the measure will give the necessary relief that is intended by the Act and therefore I would request the House to pass the Bill as it has emerged from the lower House."

The motion was put and carried.

Clauses 2, 3, 1 and the preamble were put and carried.

THE HON. DR. P. SUBBARAYAN :—" Sir, I move—
 'that the Bill be passed into law.' "

The motion was put and carried and the Bill was passed into law.

MR. PRESIDENT :—" We have finished the agenda before us. There is no work for tomorrow. The House will now adjourn and re-assemble at 11 a.m. on Monday, the 8th December 1947, to discuss the supplementary budget."

The House adjourned to meet again on Monday, the 8th December 1947.

III.—PAPERS LAID ON THE TABLE OF THE HOUSE.

1. Notification published with G.O. No. 3994, Home, dated 31st October 1947 making certain amendments to the Motor Vehicles Rules, 1940, published with Home Department Notification No. 357, dated the 29th March 1940, as subsequently amended.

2. The Madras Entertainments Tax (Amendment) Bill, 1947 (L.A. Bill No. 28 of 1947), passed by the Assembly and received therefrom in the Council.

3. The Madras General Sales Tax (Amendment) Bill, 1947 (L.A. Bill No. 25 of 1947), passed by the Assembly and received therefrom in the Council.

4. The Madras Marumakkattayam (Amendment) Bill, 1947 (L.A. Bill No. 39 of 1947), passed by the Assembly and received therefrom in the Council.

5. The Madras City Police (Amendment) Bill, 1947 (L.A. Bill No. 40 of 1947), passed by the Assembly and received therefrom in the Council.

6. The Madras Hindu Women's Rights to Property (Extension to Agricultural Land) Bill, 1947 (L.A. Bill No. 4 of 1947), passed by the Assembly and received therefrom in the Council.

[5th December 1947]

APPENDIX I.

[Vide item II (1) on page 70 supra.]

A Bill further to amend the Madras Entertainments Tax Act, 1939, as passed by the Assembly (L.A. Bill No. 28 of 1947).

WHEREAS it is expedient further to amend the Madras Entertainments Tax Act, 1939, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Madras Act
X of 1939.

Short title
and com-
mencement.

1. (1) This Act may be called the Madras Entertainments Tax (Amendment) Act, 1947.

(2) It shall come into force on such date as the Provincial Government may, by notification in the *Fort St. George Gazette*, appoint.

Amendment
of section 3,
Madras Act
X of 1939.

2. In section 3 of the Madras Entertainments Tax Act, 1939 (hereinafter referred to as the said Act), for clause (6), the following clause shall be substituted, namely:—

Madras Act
X of 1939.

“(6) ‘local authority’ means—

(a) in the City of Madras, the Corporation of Madras; (b) in any other municipal area, the municipal council concerned;

(c) in any area in a district as defined in the Madras Local Boards Act, 1920, which is comprised within the jurisdiction of a panchayat, the panchayat concerned; and

(d) in any area in a district defined as aforesaid which is not comprised within the jurisdiction of a panchayat, the district board concerned.”

Madras Act
XIV of
1920.

Substitution
of new
section for
section 4,
Madras Act
X of 1939.

3. For section 4 of the said Act, the following section shall be substituted, namely:—

Tax on pay-
ment for
admission to
entertain-
ments.

“4. (1) On each payment for admission to any entertainment, there shall be levied and paid to the Provincial Government (except as otherwise expressly provided in this Act), a tax (hereinafter referred to as the entertainments tax) calculated at the following rates, namely:—

Rate of tax.

Where such payment (inclusive of the amount of the tax)—

(i) is not more than five annas; One-fifth of such payment.

(ii) is more than five annas but is not more than one rupee eight annas; One-fourth of such payment.

(iii) is more than one rupee eight annas. One-third of such payment.

Provided that in the case of cinematograph exhibitions the tax shall be calculated at the rates specified above on each payment for admission, after excluding from each payment the amount of the tax:

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Provided further that in the case of dramatic and music performances, Indian dances and exhibitions of works of art, manufacture, agricultural products or other articles, or any other exhibitions specified by the Provincial Government by general or special order, the entertainments tax shall be paid on each payment for admission to the entertainment at the following rates, namely :—

Rate of tax.

Where such payment (inclusive of the amount of the tax)—

- | | |
|---|-----------------------------|
| (i) is not more than three rupees ; | One-eighth of such payment. |
| (ii) is more than three rupees but is not more than five rupees ; | One-fifth of such payment. |
| (iii) is more than five rupees. | One-third of such payment. |

(2) Where the payment for admission to any entertainment (exclusive of the tax in the case of cinematograph exhibitions and inclusive of the tax in all other cases) is less than one rupee, fractions of an anna in the amount of the tax shall be rounded to the nearest quarter of an anna ; and where such payment is one rupee or more, such fractions shall be rounded to the nearest anna, half-an-anna being rounded to the next higher anna."

4. In section 5 of the said Act, clause (b), and the brackets and letter '(a)' at the commencement and the word 'or' at the end of clause (a), shall be omitted. Amendment of section 5, Madras Act X of 1939.

5. In section 13 of the said Act, for sub-section (1), the following sub-section shall be substituted, namely :— Amendment of section 13, Madras Act X of 1939.

"(1) Ten per cent of the proceeds of the tax collected under this Act every year in respect of entertainments held within the jurisdiction of any local authority shall be credited to the Provincial Government, and the balance of ninety per cent shall be paid to the local authority :

Provided that the Provincial Government may direct that such balance shall be distributed between the local authority aforesaid and any other local authority or authorities in the neighbourhood in such proportions as the Provincial Government may fix.

Explanation.—In this sub-section, 'year' shall mean the financial year."

6. In section 16, sub-section (2), clause (i), of the said Act, the words "on behalf of the Provincial Government" and the words "for the payment of a commission to the local authority for making the collection" shall be omitted. Amendment of section 16, Madras Act X of 1939.

7. The Madras Entertainments Tax (Amendment) Act 1945, is hereby repealed. Repeal.

[5th December 1947]

APPENDIX II.

[Vide item II (2) on page 71 supra.]

A Bill further to amend the Madras General Sales Tax Act, 1939.

(As passed by the Assembly.)

WHEREAS it is expedient further to amend the Madras General Sales Tax Act, 1939, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Madras
Act IX of
1939.

1. (1) This Act may be called the Madras General Sales Tax (Amendment) Act, 1947.

(2) This Act shall come into force at once ; and the rest of this Act shall come into force on such date as the Provincial Government may, by notification in the *Fort St. George Gazette*, appoint.

2. In section 2 of the Madras General Sales Tax Act, 1939 (hereinafter referred to as the said Act)—

Madras
Act IX of
1939.

(i) clause (a) shall be relettered as clause (a-1), and before the clause as so relettered, the following clause shall be inserted, namely :—

“(a) ‘agricultural or horticultural produce’ shall not be deemed to include tea.”

(ii) in clause (b) (which defines “dealer”), Explanation (2) and the figure and brackets ‘(1)’ in Explanation (1) shall be omitted ;

(iii) in clause (c) (which defines “goods”), after the words “all materials, commodities and articles”, the following words shall be added, namely :—

“including those to be used in the construction, fitting out, improvement or repair of immovable property or in the fitting out, improvement or repair of movable property ; and also includes all growing crops, grass and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale ;” ;

(iv) after clause (g), the following clause shall be inserted, namely :—

“(g-1) ‘registered dealer’ means a dealer registered under this Act ;” ;

(v) in clause (h) (which defines “sale”)—

(a) in the first paragraph, after the words “valuable consideration”, the following words shall be inserted, namely :—

“and includes also a transfer of property in goods involved in the execution of a works contract,” ;

Short
title and
commence-
ment.

Amendment
of section 2,
Madras
Act IX of
1939.

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(b) the Explanation shall be numbered as Explanation (1), and after the Explanation as so numbered, the following Explanation shall be added, namely :—

Explanation (2).—Notwithstanding anything to the contrary in the Indian Sale of Goods Act, 1930, the sale or purchase of any goods shall be deemed, for the purposes of this Act, to have taken place in this Province, wherever the contract of sale or purchase might have been made—

(a) if the goods were actually in this Province at the time when the contract of sale or purchase in respect thereof was made, or

(b) in case the contract was for the sale or purchase of future goods by description, then, if the goods are actually produced in this Province at any time after the contract of sale or purchase in respect thereof was made.” ;

(vi) the Explanation to clause (i) (which defines “turn-over”) shall be numbered as Explanation (1), and in that Explanation—

(a) items (i), (ii) and (iii) shall be renumbered as items (ii), (iii) and (iv) respectively, and the following shall be inserted as item (i), namely :—

“(i) the amount for which goods are sold shall, in relation to a works contract, be deemed to be the amount payable to the dealer for carrying out such contract, less such portion as may be prescribed of such amount, representing the usual proportion of the cost of labour to the cost of materials used in carrying out such contract ;” ;

(b) the word “and” at the end shall be omitted ;

(vii) after clause (i), the following clause shall be inserted, namely :—

“(ii) ‘works contract’ means any agreement for carrying out for cash or for deferred payment or other valuable consideration, the construction, fitting out, improvement or repair of any building, road, bridge or other immovable property or the fitting out, improvement or repair of any movable property ;”.

3. For section 3 of the said Act, the following section shall be substituted, namely :—

“3. (1) Subject to the provisions of this Act,—

(a) every dealer shall pay for each year a tax on his total turnover for such year ; and

(b) the tax shall be calculated at the rate of three pies for every rupee in such turnover.

Substitution of new section for section 3, Madras Act IX of 1939.

Levy of taxes on sales of goods.

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(2) Subject as aforesaid, the sale of any of the goods mentioned below shall be subject to a tax at the rate specified in respect thereof, at such single point in the series of sales by successive dealers as may be prescribed ; and the tax shall be paid by the dealer concerned on his turnover in each year relating to such goods, and shall be in addition to the tax to which he is liable under sub-section (1) on his total turnover for the year.

Description of the goods.	Rate of tax for every rupee in the turnover relating to such goods. (2)
(1) (i) Motor vehicles including motor cars, motor taxi-cabs, motor cycles and cycle combinations, motor scooters, motorettes, motor omnibuses, motor vans and motor lorries. Chassis of motor vehicles Component parts of motor vehicles Articles (including rubber and other tyres and tubes and batteries) adapted for use as parts and accessories of motor vehicles, not being such articles as are ordinarily also used for other purposes than as parts or accessories of motor vehicles.	Six pies.
(ii) Refrigerators and air-conditioning plants . .	
(iii) (a) Wireless reception instruments and apparatus and component parts thereof, including all electrical valves, accumulators, amplifiers and loudspeakers which are not specially designed for purposes other than wireless reception.	
(b) Radio gramophones	
(iv) (a) Cinematographic, photographic and other cameras, projectors and enlargers ; lenses and other parts of and accessories to such cameras, projectors and enlargers ; and films, plates, paper and cloth required for use therewith.	Three pies.
(b) Binoculars and opera glasses	
(v) All electrical goods, instruments, apparatus and appliances, including fans and lighting bulbs, electrical earthenware and porcelain, and all other accessories.	
(vi) Any pen, pencil, or pen and pencil set, sold for twenty rupees or more.	
(vii) All clocks, time-pieces and watches ; and parts thereof.	

(3) A dealer whose total turnover in any year is less than ten thousand rupees shall not be liable to pay any tax for that year under sub-section (1) or sub-section (2).

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(4) For the purposes of this section and the other provisions of this Act, turnover shall be determined in accordance with such rules as may be prescribed :

Provided that no such rules shall come into force unless they are approved by a resolution of the Legislative Assembly.

(5) The taxes under sub-sections (1) and (2) shall be assessed, levied and collected in such manner and in such instalments, if any, as may be prescribed :—

Provided that—

(i) in respect of the same transaction of sale, the buyer or the seller, but not both, as determined by such rules as may be prescribed, shall be taxed ;

(ii) where a dealer has been taxed in respect of the purchase of any goods in accordance with the rules referred to in clause (i) of this proviso, he shall not be taxed again in respect of any sale of such goods effected by him.

(6) Subject to such rules as may be prescribed, the assessing authority may assess a dealer for any year as if his transactions in such year had been the same as in the previous year."

4. For sections 5 and 6 of the said Act, the following sections shall be substituted, namely :—

Substitution of new sections 5, 6 and 6-A for sections 5 and 6, Madras Act IX of 1939.

" 5. Subject to such restrictions and conditions as may be prescribed, including conditions as to licences and licence fees—

Exemptions and reductions of tax in certain cases.

(i) the sale of cotton, of handspun yarn and of any cloth woven on handlooms wholly with handspun yarn and sold by persons dealing exclusively in such cloth, shall be exempt from taxation under section 3, sub-section (1) ;

(ii) the sale of cotton yarn other than handspun yarn shall be liable to tax under section 3, sub-section (1), only at two points in the series of sales by successive dealers as may be prescribed and only at the rate of one-fourth of one per cent of the turnover at each of the two points ;

(iii) the sale of any cloth woven on handlooms wholly or partly with mill yarn shall be exempt from taxation under section 3, sub-section (1), if the sale is to a wholesale or retail dealer in the Province, or if the sale is for delivery outside the Province and delivery is actually so made ;

(iv) the sale of bullion and specie shall be liable to tax under section 3, sub-section (1), only at such single point in the

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series of sales by successive dealers as may be prescribed and only at the rate of one-fourth of one per cent of the turnover at that point ;

(v) the sale of tea grown by the seller or grown on any land in which he has an interest, whether as owner, usufructuary mortgagee, tenant or otherwise, shall be exempt from taxation under section 3, sub-section (1), if the sale is for delivery outside the Province and delivery is actually so made ;

(vi) the sale of hides and skins, whether tanned or untanned and of newspapers, that is to say, of periodical works containing public news or comments on public news, shall be liable to tax under section 3, sub-section (1), only at such single point in the series of sales by successive dealers as may be prescribed.

Power of Government to notify exemptions and reductions of tax.

6. (1) The Provincial Government may, by notification in the *Fort St. George Gazette*, make an exemption, or reduction in rate, in respect of any tax payable under this Act—

(i) on the sale of any specified class of goods, at all points or at any specified point or points in the series of sales by successive dealers ; or

(ii) by any specified class of persons, in regard to the whole or any part of their turnover.

(2) Any exemption from tax, or reduction in the rate of tax, notified under sub-section (1)—

(a) may extend to the whole Province or to any specified area or areas therein ;

(b) may be subject to such restrictions, and conditions as may be specified in the notification, including conditions as to licences and licence fees.

Liability to tax of persons not observing conditions of licence, etc.

6-A. If any restrictions or conditions prescribed under section 5 or notified under section 6 are contravened or are not observed by a dealer, or in case a condition so prescribed or notified requires that a licence shall be taken out or renewed, if a licence is not taken out or renewed by the dealer or if any of the conditions of a licence taken out or renewed by him are contravened or are not observed, the sales of the dealer, with effect from the commencement of the year in which such contravention or non-observance took place, may be assessed to tax or taxes under section 3, as if the provisions of section 5 or of the notification under section 6, as the case may be, did not apply to such sales and notwithstanding that a licence, if any, taken out or renewed by the dealer continued or continues to be in force during the year."

Amendment of section 8 Madras Act IX of 1939.

5. In section 8 of the said Act (which relates to the licensing and exemption of agents)—

(i) for the words and figure "exempt from the tax under section 3", the words and figure "exempt from the tax or taxes payable under section 3" shall be substituted ;

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(ii) after the proviso, the following proviso shall be added, namely :—

“ Provided further that the commission or brokerage agreed upon and specified in the accounts represents the entire remuneration payable to the agent, apart from legitimate incidental charges actually incurred by him and specified in the accounts, in respect of insurance, transport, loading and unloading, godown rent, interest, correspondence, telegrams, the use of the telephone, and the like :

Provided also that the burden of proving that a transaction is exempt, by virtue of this section, from the tax or taxes payable under section 3, shall be on licensee.”

6. After section 8 of the said Act, the following sections shall be inserted, namely :—

Insertion of
new sections
8-A and
8-B in
Madras
Act IX of
1939.

“ 8-A. (1) Every dealer whose turnover in any year is not less than seven thousand five hundred rupees shall, and any other dealer may, get himself registered under this Act, and for that purpose, shall submit an application for registration, to such person, in such manner, within such period, and accompanied by such fee not exceeding six rupees, as may be prescribed.

Registration
of dealers.

(2) A dealer who has got himself registered in pursuance of sub-section (1) is entitled to have his registration cancelled, if he is able to establish to the satisfaction of the prescribed authority that his turnover in each of two consecutive years was less than seven thousand five hundred rupees.

(3) A dealer shall, until his registration is cancelled, be liable to pay the fee prescribed as aforesaid, for every year subsequent to that in which he applied for registration.

8-B. (1) No person who is not a registered dealer shall collect any amount by way of tax under this Act ; nor shall a registered dealer make any such collection except in accordance with such conditions and restrictions, if any, as may be prescribed :

Collection
of tax by
dealers.

Provided that Provincial Government may exempt persons who are not registered dealers from the provisions of this sub-section until such date, not being later than the 1st day of April 1948, as the Provincial Government may direct.

(2) Every person who has collected or collects any amount by way of tax under this Act, on or after the 1st day of April 1947, shall pay over to the Provincial Government within such time and in such manner as may be prescribed, all amounts so collected by him if they are in excess of the

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tax, if any, paid by him for the period during which the collections were made ; and, in default of such payment, the amounts may be recovered as if they were arrears of land revenue."

Amendment
of section 9,
Madras
Act IX of
1939.

7. In section 9 of the said Act (which relates to submission of returns and assessment)—

(i) in sub-section (1), for the words "return or returns of his turnover", the words "return or returns relating to his turnover" shall be substituted, and for the words and figures "specified in the rules made under sub-section (2) of section 3," the word "prescribed" shall be substituted ;

(ii) in sub-section (2), clause (b), for the words and figures "shall proceed to determine the turnover in accordance with the rules made under sub-section (2) of section 3", the words "shall assess the dealer to the best of his judgment" shall be substituted.

Substitution
of new
section 12,
Madras Act
IX of 1939,
Revision.

8. For section 12 of the said Act, the following section shall be substituted, namely :—

"12. (1) The Board of Revenue may in its discretion call for and examine the record of any order passed or proceeding recorded by any authority, officer or person under the provisions of this Act, including sub-section (2), for the purpose of satisfying itself as to the legality or propriety of such order, or as to the regularity of such proceeding, and may pass such order in reference thereto as it thinks fit.

(2) Powers of the nature referred to in sub-section (1) may also be exercised by such authority or officer and in such class of cases as may be prescribed, including cases where an inferior authority or officer has exercised its or his powers under this sub-section.

(3) The powers conferred by sub-sections (1) and (2) may be exercised by the Board of Revenue or by the authority or officer concerned, as the case may be, *suo motu* at any time or on application preferred within six months of the passing or recording of the order or proceeding in question.

(4) Nothing contained in this section shall apply to the orders or proceedings of any Court or Magistrate."

Amendment
of section
13, Madras
Act IX of
1939.

9. In section 13 of the said Act (which relates to the maintenance of accounts)—

(i) for the words and figure "Every dealer and every person licensed under section 8," the words "Every registered dealer and every person licensed under this Act," and for the words "true and correct account showing the value of the goods sold and bought by him," the words "true and correct account in one of the languages of the Province, namely, Tamil, Telugu, Malayalam, Kannada or Hindustani or in English, showing the goods sold and bought by him and the value thereof, goods of each of the kinds specified in section 3, sub-section (2), being shown separately" shall be substituted ;

(ii) the proviso shall be omitted.

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10. After section 14 of the said Act, the following section shall be inserted, namely :—

Insertion
of new
section 14-A
in Madras
Act IX of
1939.

“ 14-A. In the case of any person carrying on the business of buying or selling goods in the Province but residing outside it (hereinafter in this section referred to as a ‘ non-resident ’), the provisions of this Act shall apply subject to the following modifications and additions, namely :—

Act to apply
to non-
resident
dealers with
certain
modifica-
tions and
additions.

(i) In respect of the business of the non-resident, his agent residing in the Province shall be deemed to be the dealer.

(ii) The agent of a non-resident shall be assessed to tax or taxes under this Act at the rate or rates leviable thereunder in respect of the business of such non-resident in which the agent is concerned, irrespective of the amount of the turnover of such business being less than the minimum specified in section 3, sub-section (3).

(iii) Without prejudice to his other rights, any agent of a non-resident who is assessed under this Act in respect of the business of such non-resident may retain out of any moneys payable to the non-resident by the agent, a sum equal to the amount of the tax or taxes assessed on or paid by the agent.

(iv) Where no tax would have been payable by the non-resident in respect of his business in the Province by reason of the turnover thereof being less than the minimum specified in section 3, sub-section (3), he shall be entitled to have the amount of the tax or taxes paid by his agent refunded to him on application made to the assessing authority concerned, or where more than one such authority is concerned to such one of the authorities as may be authorized in this behalf by the Provincial Government by general or special order.

(v) Such application shall be made within twelve months from the end of the year in which payment was made by or on behalf of the non-resident of the tax or taxes or any part thereof.”

11. In section 15 of the said Act which relates to offences and penalties :—

Amendment
of section 15
Madras
Act IX of
1939.

(i) in clause (b), for the words “ to pay the tax due from him within the time allowed,” the words “ to pay within the time allowed, any tax assessed on him, or any fee due from him, under this Act ” shall be substituted ;

(ii) in clause (d), for the words “ any tax due under this Act,” the words “ any tax assessed on him, or any fee due from him, under this Act ” shall be substituted ;

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(iii) clause (e) shall be re-lettered as clause (h), and the following shall be inserted as clauses (e), (f) and (g), namely :—

“ (e) fails to submit an application for registration as required by section 8-A, sub-section (1), or

(f) collects any amount by way of tax under this Act, in contravention of the provisions of section 8-B, sub-section (1), or

(g) fails to pay the amounts specified in section 8-B, sub-section (2), within the prescribed time, or ” ;

(iv) the words “ and where the breach is a continuing breach, to a further fine which may extend to fifty rupees for every day after the first during which the breach continues ” shall be omitted ; and in lieu thereof the following words shall be inserted, namely :—

“ and in the case of a conviction under clause (b), (d), (f) or (g), the Magistrate shall specify in the order the tax, fee or other amount, which the person convicted has failed or evaded to pay or has wrongfully collected, and the tax, fee or amount so specified shall be recoverable as if it were a fine.”

Insertion of
new section
16-A in
Madras Act
IX of 1939.

12. After section 16 of the said Act, the following section shall be inserted, namely :—

Assessments,
etc., not to
be question-
ed in prose-
cutions.

“ 16-A. The validity of the assessment of any tax, or of the levy of any fee or other amount, made under this Act or the liability of any person to pay any tax, fee or other amount so assessed or levied shall not be questioned in any Criminal Court in any prosecution or other proceeding, whether under this Act or otherwise.”

Repeal
of section
20, Madras
Act IX of
1939.

13. Section 20 of the said Act (which contains a transitional provision which has become spent) shall be omitted. . .

Repeal of
sections 3
and 4,
Madras
Act XVII of
1943, and
of Madras
Acts X of
1944, VII of
1945 and IX
of 1945.

14. Sections 3 and 4 of the Madras Finance (No. 2) Act, 1943, and the whole of the following Acts, namely, the Madras General Sales Tax (Amendment) Act, 1944, the Madras General Sales Tax (Amendment) Act, 1945, and the Madras General Sales Tax (Second Amendment) Act, 1945, are hereby repealed.

Madras
Act XVII
of 1943.
Madras Act
X of 1944.
Madras Act
VII of 1945.
Madras Act
IX of 1945.

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APPENDIX III.

[Vide item II (3) on page 87 supra.]

A Bill further to amend the Madras Suppression of Immoral Traffic Act, 1930.

(As passed by the Assembly.)

Madras Act
V of 1930.

WHEREAS it is expedient further to amend the Madras Suppression of Immoral Traffic Act, 1930, for the purposes herein-after appearing ; It is hereby enacted as follows :—

1. This Act may be called the Madras Suppression of Short title. Immoral Traffic (Amendment) Act, 1947.

Madras Act
V of 1930.

2. In section 4 of the Madras Suppression of Immoral Traffic Act, 1930 (hereinafter referred to as the said Act), after clause (f), the following clause shall be inserted, namely :—

Amendment,
of section 4
Madras Act
V of 1930.

“(g) ‘Vigilance Home’ means a corrective institution established or recognized by the Provincial Government, in which women are detained in pursuance of this Act and given such training and instruction and subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of offences under this Act.”

3. In section 12 of the said Act, for the words “two months”, the words “one year” shall be substituted.

Amendment
of section
12, Madras
Act V of
1930.

4. After section 12 of the said Act, the following section shall be inserted, namely :—

Insertion of
new section
12-A in
Madras Act
V of 1930.

“12-A (1) Where a Magistrate convicting any woman of an offence punishable under section 12 finds that she has not attained the age of thirty years, he may, in lieu of passing a sentence of imprisonment under that section, pass a sentence of detention in a Vigilance Home for a term which shall not be less than two years or more than five years.

Detention in
Vigilance
Home.

(2) Where a Magistrate has arrived at a finding regarding the age of a woman dealt with by him under sub-section (1), such age shall, for the purpose of that sub-section, be deemed to be her true age, and no order or judgment of the Magistrate shall be deemed to be invalid or be liable to be interfered with in appeal or revision on the ground that her age had not been correctly determined by the Magistrate.

(3) For the purposes of appeal and revision under the Code of Criminal Procedure, 1898, a sentence of detention for any period passed under sub-section (1) shall be deemed to be a sentence of imprisonment for the like period.”

Central Act
V of 1898.

[5th December 1947]

Amendment
of section 16,
Madras Act
V of 1930.

5. In section 16 of the said Act, the word "and" at the end of clause (a) shall be omitted, and after clause (b), the following shall be added, namely :—

"(c) for the purpose of carrying into effect the provisions of section 12-A; and in particular, and without prejudice to the generality of this power, with regard to—

(i) the management of Vigilance Homes and the appointment, powers and duties of officials in such Homes;

(ii) the care, treatment, maintenance, training, instruction and control of the inmates of such Homes;

(iii) visits to, and communications with, such inmates;

(iv) the temporary detention of women sentenced to detention in Vigilance Homes until arrangements are made for sending them to such Homes, provided that no woman shall be detained in the custody of any person or body of a religious persuasion different from hers;

(v) the transfer of women from one Vigilance Home to another;

(vi) the transfer from Vigilance Homes to prisons of women found to be incorrigible or exercising a bad influence, and the period of their detention in such prisons, provided that such period shall not exceed one year;

(vii) the transfer to Vigilance Homes of women sentenced under section 12 and the period of their detention in such Homes;

(viii) the discharge of inmates from Vigilance Homes either absolutely or subject to conditions, and their arrest in the event of a breach of such conditions;

(ix) the grant of permission to inmates to absent themselves for short periods;

(x) the application of the provisions of the Prisons Act, 1894, the Prisoners Act, 1900, and the Madras Borstal Schools Act, 1925, and the rules made under those Acts, to Vigilance Homes and their inmates, subject to such adaptations, alterations and exceptions as may be specified.

Central Act
IX of 1894
Central Act
III of 1900.
Madras Act
V of 1926.

In making any rule under clause (c), the Provincial Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees."

5th December 1947]

APPENDIX IV.

[Vide item II (4) on page 94 supra.]

A Bill to prevent the dedication of women as devadasis in the Province of Madras.

(As passed by the Assembly.)

WHEREAS the practice still prevails in certain parts of the Province of Madras of dedicating women as "devadasis" to Hindu deities, idols, objects of worship, temples and other religious institutions;

AND WHEREAS such practice, however ancient and pure in its origin, leads many of the women so dedicated to life of prostitution;

AND WHEREAS it is necessary to put an end to the practice;

It is hereby enacted as follows:—

1. (1) This Act may be called the Madras Devadasis (Pre- Short title
vention of Dedication) Act, 1947. and extent.

(2) It extends to the whole of the Province of Madras.

2. In this Act, unless there is anything repugnant in the Definitions. subject or context—

(a) "dedication" means the performance of any ceremony, by whatever name called, by which a woman is dedicated to the service of a Hindu deity, idol, object of worship, temple or other religious institution, and includes 'pottukattu,' 'gajjepuja,' 'mudri' and dancing by 'kumbhaharathy';

(b) "devadasi" means any woman so dedicated;

(c) "woman" means a female of any age.

3. (1) The dedication of a woman as a devadasi, whether before or after the commencement of this Act and whether she has consented to such dedication or not, is hereby declared unlawful and void; and any woman so dedicated shall not thereby be deemed to have become incapable of entering into a valid marriage.

Dedication
as devadasi
to be unlaw-
ful.

Nothing contained in this sub-section shall be deemed to affect the operation of section 44-A of the Madras Hindu Religious Endowments Act, 1926, or the rights to which a devadasi is entitled under that section.

(2) Any custom or usage prevailing in any Hindu community such as the Bogum, Kalavanthula, Sani, Nagavasulu, Devadasi and Kurmapulu, that a woman of that community

[5th December 1947]

who gives or takes part in any melam (nautch), dancing or music performance in the course of any procession or otherwise is thereby regarded as having adopted a life of prostitution and becomes incapable of entering into a valid marriage, and the performance of any ceremony or act in accordance with any such custom or usage, whether before or after the commencement of this Act and whether the woman concerned has consented to such performance or not, are hereby declared unlawful and void.

(3) Dancing by a woman, with or without *kumbha-harathy*, in the precincts of any temple or other religious institution, or in any procession of a Hindu deity, idol or object of worship installed in any such temple or institution or at any festival or ceremony held in respect of such a deity, idol or object of worship, is hereby declared unlawful.

Penalty.

4. (1) Any person having attained the age of sixteen years who after the commencement of this Act performs, permits, takes part in, or abets the performance of any ceremony or act for dedicating a woman as a devadasi or any ceremony or act of the nature referred to in section 3, sub-section (2), shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Explanation.—The person referred to in this section shall include the woman in respect of whom such ceremony or act is performed.

(2) Any person having attained the age of sixteen years who dances in contravention of the provisions of section 3, sub-section (3), or who abets dancing in contravention of the said provisions, shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

**Cognizance
and trial of
offences.**

5. No Court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall inquire into or try any offence punishable under section 4.

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APPENDIX •V.

[Vide item II (5) on page 103 supra.]

A Bill to amend the Madras Marumakkattayam Act, 1932.

(As passed by the Assembly.)

Madras Act
XXII of
1933.

WHEREAS it is expedient to amend the Madras Marumakkattayam Act, 1932, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Madras Marumakkattayam Short title. (Amendment) Act, 1947.

Madras Act
XXII of
1933.

2. In the Madras Marumakkattayam Act, 1932 (hereinafter referred to as the said Act), in section 4, sub-section (1), clauses (b) (i) and (b) (iii), the words “and is subsisting on such date” shall be omitted.

Amendment
of section 4
of Madras
Act XXII of
1933.

3. (1) In section 6 of the said Act, in the opening paragraph, after the words “may be dissolved”, the words “on or after the date on which this Act comes into force” shall be inserted;

Amendment
of section 6
of Madras
Act XXII of
1933.

(2) To the same section, the following paragraph shall be added at the end, namely :—

“Nothing contained in this section shall be deemed to invalidate any dissolution of the marriage effected before the date on which this Act comes into force, in accordance with the custom prevailing in the community to which the parties belong or either of them belongs.”

4. After the same section, the following section shall be inserted, namely :—

Insertion of
new section
16-A in
Madras Act
XXII of
1933.

“6-A. The dissolution of a marriage which is valid under section 4, whether by death or otherwise and whether before or after the commencement of this Act, shall not affect in any way the legal status or rights under this Act of the children of such marriage or of their descendants.”

Rights of
children of
marriage,
etc., not
affected by
dissolution
of marriage.

5. In section 50 of the said Act, clause (a) and the brackets and letter “(b)” shall be omitted.

Amendment
of section 50
of Madras
Act XXII of
1933.

6. The amendments made by this Act shall be deemed to have been made in the said Act immediately before the passing thereof:

Amendments
to have re-
trospective
effect except
in certain
cases.

Provided that nothing contained in this Act shall affect—

(a) any decree or order of a competent Court which became final before the commencement of this Act, or

(b) any sale which was held in execution of a decree or an order of a competent Court and which became final before the commencement of this Act, or

(c) any transfer or partition of property effected before the commencement of this Act.

[5th December 1947]

APPENDIX VI.

[Vide item II (6) on page 106 supra.]

(As passed by the Assembly.)

A Bill further to amend the Madras City Police Act, 1888.

WHEREAS it is expedient further to amend the Madras City Police Act, 1888, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras City Police (Amendment) Act, 1947.

Insertion of new section 71-M in Madras Act III of 1888.

2. In the Madras City Police Act, 1888, after section 71-L, the following section shall be inserted, namely :—

Madras Act III of 1888.

Maximum laden weight of hand-carts, etc.

“ 71-M. (1) The maximum laden weight of a hand-cart shall not exceed the following limits :—

	If the cart is fitted with pneumatic tyres on both or all the wheels.	In other cases.
	CWT.	CWT.
(i) When the cart is dragged or pushed by one person.	7	6
(ii) When the cart is dragged or pushed by two persons.	14	12
(iii) When the cart is dragged or pushed by three persons.	23	18
(iv) When the cart is dragged or pushed by four persons or more.	30	24

(2) The height of a load on a hand-cart shall not exceed the limit, if any, laid down in by-laws made under this Act.

(3) No person under the age of eighteen years shall drag or push a hand-cart, whether by himself or along with others.

(4) If a hand-cart is dragged or pushed in contravention of the provisions of sub-section (1), (2) or (3), any person who so drags or pushes it, and also any person employing him or in any way responsible for or abetting such contravention or employment, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees.”

5th December 1947]

APPENDIX VII.

[Vide item II (7) on page 107 supra.]

A Bill for extending the operation of the Hindu Women's Rights to Property Act, 1937, and the Hindu Women's Rights to Property (Amendment) Act, 1938, to agricultural land in the Province of Madras.

Central Act XVIII of 1937. Central Act XI of 1938. WHEREAS it is expedient to extend the operation of the Hindu Women's Rights to Property Act, 1937, and the Hindu Women's Rights to Property (Amendment) Act, 1938, to agricultural land in the Province of Madras; It is hereby enacted as follows:—

1. (1) This Act may be called the Madras Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1947. Thort title, extent and commencement.
- (2) It extends to the whole of the Province of Madras.
- (3) It shall come into force at once.

Central Act XVIII of 1937. Central Act XI of 1938. 2. The term "property" in the Hindu Women's Rights to Property Act, 1937, and the Hindu Women's Rights to Property (Amendment) Act, 1938, shall include agricultural land. The term "property" in Central Acts XVIII of 1937 and XI of 1938 to include agricultural land.

3. Nothing contained in this Act shall apply to the property of any Hindu dying intestate before the 26th day of November 1946. Saving.

Explanation.—A person shall be deemed to die intestate within the meaning of this section in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

செப்டம்பர் 1954-ம் ஆண்டு
செப்டம்பர் 12-ம் திகதி
தமிழ் மக்களின்

